

BILL NO. G-91-08-38 (AS AMENDED)

GENERAL ORDINANCE NO. G-25-91

AN ORDINANCE AMENDING CHAPTER 24 OF THE
CITY OF FORT WAYNE CODE OF LAWS.

WHEREAS, The City of Fort Wayne, through adoption of Ordinance G-17-91, has established an interim stormwater fee structure as the most equitable and appropriate method to fund the operation, maintenance and improvement of its stormwater system; and

WHEREAS, It is the purpose of this Ordinance to more accurately categorize the users of the City's stormwater system according to the impervious stormwater runoff contributed by each, and to compensate those users which were over-charged.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That Chapter 24 of the City of Fort Wayne Code of Laws be amended as follows:

CHAPTER 24

SEWERS AND SEWERAGE SYSTEM

ARTICLE I - General

Sec. 24.1. Definitions.

Unless the context specifically indicates otherwise, the meanings of the following terms as used in this Chapter and as used in the Rules and Regulations adopted by the Board of Public Works implementing the provisions of this Chapter for the Fort Wayne sewerage system are as set out below respectively:

- a) "ACT:" the Federal Water Pollution Control Act, also known as "The Clean Water Act," as amended, 33 U.S.C. 466, as referred to at I.C. 13-1-4-1.
- b) "APPLICABLE PRETREATMENT STANDARDS" - any pretreatment limit or prohibitive standard (Federal, State and/or Local) contained in the ordinance and considered to be the more restrictive with which non-domestic users shall be required to comply.
- c) "BIOCHEMICAL OXYGEN DEMAND (BOD)" - the quantity of dissolved oxygen, in milligrams per liter, required during the stabilization of the decomposable organic matter by aerobic biochemical action of sewage, sewage effluent, polluted waters or industrial wastes under standard laboratory procedures for five days at 20° centigrade. The laboratory determinations shall be made in accordance with procedures set forth in "Standard Methods" (see paragraph 24-1.(mm) below).

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- d) **"BUILDING (OR HOUSE) DRAIN:"** that part of the lowest piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer.
- "COMBINED:"** a building drain which conveys both sewage and storm water or other drainage.
- "SANITARY:"** a building drain which conveys sewage only.
- "STORM:"** a building drain which conveys storm water or other drainage, but not sewage.
- e) **"BUILDING (OR HOUSE) DRAIN CONNECTION:"** the point where the Building (or House) sewer is connected to the building drain at a location approximately three (3) feet outside the foundation wall of the building.
- f) **"BUILDING (OR HOUSE) SEWER"** - that part of the drainage system which extends from the end of the building drain and conveys its discharge to a public sewer, private sewer, individual sewage disposal system or other point of disposal.
- "COMBINED:"** a building sewer which conveys both sewage and storm water or other drainage.
- "SANITARY:"** a building sewer which conveys sewage only.
- "STORM:"** a building sewer which conveys storm water or other drainage, but not sewage.
- g) **"BUILDING (OR HOUSE) SEWER CONNECTION"** - the point where the building sewer is connected to the public sewer. This connection to the public sewer may be accomplished as follows:
1. Where a tap-in connection is employed, the point of connection shall be where the end of the building sewer meets the inside face of the sewage system and the tapping "saddle and/or joint" shall be considered part of the building sewer.
 2. Where fittings (T's or Y's) are employed the connection shall be where the end of the first pipe meets the end of the fitting and the said T or Y fitting shall be considered a part of the building sewer.
- h) **"BULK WASTE"** - any containerized solid, liquid or gaseous substance discarded or to be discarded as worthless, defective or of no use to the person discarding said substance.
- i) **"CHEMICAL OXYGEN DEMAND (COD)"** - a measure of oxygen equivalent to that portion of the organic matter in a sample of sewage, sewage effluent, polluted waters or industrial wastes that is susceptible to oxidation by a strong chemical oxidant. The laboratory determinations shall be made in accordance with procedures set forth in "Standard Methods."
- j) **"CITY"** - the City of Fort Wayne, Indiana.
- k) **"CLASSIFICATION OF USERS"**
1. **"RESIDENTIAL USERS"** shall include any user of the City's treatment works whose lot, parcel or real

estate or building is used for domestic dwelling purposes only.

2. **"COMMERCIAL USER"** shall include all retail stores, restaurants, office buildings, laundries and other private business and service establishments, including those identified in the Standard Industrial Classification Manual, 1972, Office of management and Budget Division I - Services.
 3. **"INDUSTRIAL USER"** shall include any of the City's treatment works which is identified in the Standard Industrial Classification manual, 1972, Office of Management and Budget, as amended and supplemented, under the following divisions; Division A-Agriculture, Forestry and Fishing; Division B-Mining; Division D-Manufacturing; Division E-Transportation, Communications, Electric, Gas and Sanitary.
 4. **"INSTITUTIONAL USER"** shall include social, charitable, religions and educational activities such as schools, churches, hospitals, nursing homes, penal institutions and similar institutional users.
 5. **"GOVERNMENTAL USER"** shall include legislative, judicial, administrative and regulatory activities of Federal, State and Local governments.
- l) **"DWELLING:"** a building, or portion thereof, under one roof used primarily as the abode of one or more persons, but not including hotels, motels, lodging or boarding houses or tourist homes.
 - m) **"EFFLUENT"** - the water, together with any wastes that may be present, flowing out of a drain, sewer receptacle or outlet.
 - n) **"EMERGENCY"** - an unforeseen circumstance or combination of circumstances that may cause an eminent endangerment to the health and/or welfare of persons, the environment, or which may interfere with the operation of the sewer collection system or the Water Pollution Control Plant.
 - o) **"GARBAGE"** - any solid wastes from the preparation, cooking or dispensing of food or from the handling, storage or sale of produce.
 - p) **"GROUND GARBAGE"** - garbage that is shredded to such a degree that all particles will be carried freely in suspension under the conditions normally prevailing in public sewers, with no particle being greater than one-half (1/2) inch in any dimension.
 - q) **"INDUSTRIAL WASTES"** - any solid, liquid or gaseous substance or form of energy discharged, permitted to flow or escape from an industrial, manufacturing, commercial or business operation or process or from the development, recovery or processing of any natural resource carried on by any person.
 - r) **"INFLUENT"** - the water, together with any wastes that may be present, flowing into a drain, sewer, receptacle or outlet.
 - s) **"MAJOR INDUSTRIAL USER"** - a user of the City-owned treatment works that: (a) has a flow of 25,000 gallons

of process water or more per average work day discharged to the City's treatment works (excluding sanitary, non-contact cooling and boiler blowdown wastewater); (b) has a flow of waste greater than 5% of the flow carried by any part of the City system receiving the waste; (c) has in its waste, a toxic pollutant in amounts as defined in standards issued under Section 307 (a) of the Federal Act; or (d) is found by the Indiana Department of Environmental Management, in connection with the issuance of the NPDES Permit to the City-owned treatment works receiving the waste, to have significant impact whether singularly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works.

- t) **"NORMAL DOMESTIC SEWAGE"** - sewage having an average daily suspended solids concentration of not more than 300 milligrams per liter, an average daily BOD concentration of not more than 300 milligrams per liter, an average daily COD concentration of not more than 600 milligrams per liter, an average daily phosphorus concentration of not more than 10 milligrams per liter, and an average daily ammonia concentration of not more than 25 milligrams.
- u) **"NPDES PERMIT"** - the National Pollutant Discharge Elimination System Permit issued by the Indiana Department of Environmental Management for discharges of waste waters to navigable waters of the United States pursuant to Section 402 of 33 U.S.C. 466.
- v) **"OPERATION AND MAINTENANCE COSTS"** - all costs direct and indirect, other than debt services including replacement costs as defined in paragraph 24.1.(bb), necessary to insure adequate wastewater treatment on a continuing basis conforming with federal, state or local requirements and to insure long-term facilities management.
- w) **"OUTLET"** - any outlet, natural or constructed, which is the point of final discharge of sewage or of treatment plant effluent into any watercourse, pond, ditch, lake or other body of surface or ground water.
- x) **"PERSON"** - any individual, owner, discharger, lessee, occupant, firm, partnership, company, municipal or private corporation, commercial establishment, association, society, institution, enterprise, governmental agency or other legal unit or entity.
- y) **"pH"** - the logarithm (to the base 10) of the reciprocal of the hydrogen ion concentration of a solution expressed in gram-atoms per liter of solution.
- z) **"POLLUTANTS"** -
 - 1. **"COMPATIBLE POLLUTANTS"** - waste containing biochemical oxygen demand, chemical oxygen demand, suspended solids, phosphorus, pH and fecal coliform bacteria and ammonia NH_3 .
 - 2. **"INCOMPATIBLE POLLUTANTS"** - wastes with any pollutant that is not a compatible pollutant which is regulated by the NPDES permit or that would cause damage to the sewage system and/or treatment plant.

- 1 aa) **"RECEIVING STREAM"** - the watercourse, stream or body of
2 water receiving the waters finally discharged from the
3 sewage treatment plant.
- 4 bb) **"REPLACEMENT COSTS"** - that cost, stated in current
5 monetary values, as an operating cost which represents
6 and measures the expenditures required to replace
7 equipment, accessories or appurtenances of the property
8 in order to maintain capacity and performance during the
9 useful life of the property of the Water Pollution
10 Control Utility.
- 11 cc) **"REPLACEMENT FUND"** - a fund maintained to provide
12 resources to pay for replacement expenditures annually as
13 required to maintain the capacity and performance of the
14 property of the Sewage Works.
- 15 dd) **"SANITARY SEWAGE"** - sewage discharged from the sanitary
16 conveniences of dwelling, apartment houses, condominiums,
17 motels, hotels, lodging or boarding houses, office
18 buildings, factories or institutions and free from storm
19 water, surface water, groundwater and industrial wastes.
- 20 ee) **"SERVICE CHARGE"** - a charge levied on a user of the
21 treatment works which includes the user charge, a charge
22 for local capital costs and may include other charges for
23 current services.
- 24 ff) **"SEWAGE"** - the water-carried wastes from residences,
25 business buildings, institutions and industrial
26 establishments, singularly or in any combination,
27 together with such ground, surface and storm waters as
28 may be present.
- 29 gg) **"SEWAGE TREATMENT PLANT"** - **"WATER POLLUTION CONTROL
30 PLANT"** - the arrangement of devices, structures and
31 equipment used for treating and disposing of sewage and
32 sludge.
- hh) **"SEWAGE WORKS" OR "WATER POLLUTION CONTROL UTILITY"** - all
facilities and systems for collecting, transporting,
pumping, treating, disposing of sewage and sludge,
including the sewage treatment plant and the sanitary,
storm and combination sewer collection systems whether or
not in active use.
- ii) **"SEWER"** - a pipe or conduit for carrying sewage and other
waste liquids as differentiated below:
1. **"COMBINED OR COMBINATION SEWER"** - a sewer which
carries storm, surface and groundwater runoff as
well as sewage.
 2. **"PUBLIC SEWER"** - a sewer to the use of which all
owners of abutting property have equal rights and
is controlled and maintained by the City or other
public authority.
 3. **"SANITARY SEWER"** - a sewer which carries domestic
and unpolluted industrial sanitary sewage and to
which storm, surface, groundwaters and unpolluted
industrial waste waters are not intentionally
admitted.
 4. **"STORM SEWER"** - a sewer which carries storm,
surface and groundwater drainage but excludes
sanitary sewage.

- 1 jj) "SEWER ENGINEER" - the Chief Sewer Engineer of the City
2 or his duly authorized representative; the term is
3 synonymous with the term "Water Pollution Control
4 Engineer."
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6 kk) "SEWERAGE SYSTEM" - the network of sewers and
7 appurtenances used for collecting, transporting and
8 pumping sewage to the Sewage Treatment Plant.
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10 ll) "SHALL" means mandatory; "may" means permissible.
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12 mm) "STANDARD METHODS" - the examination and analytical
13 procedures set forth in the most recent edition of
14 "Standard Methods for the Examination of Water and
15 Wastewater," published jointly by the American Water
16 Works Association and the Water Pollution Control
17 Federation, a copy of which is on file in the Office of
18 the Superintendent.
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20 nn) "STRENGTH-OF-WASTE SURCHARGE" - the additional charges
21 for sewage service collected from users discharging
22 sewage into the system having a strength measurement in
23 excess of the limits imposed by the provisions of this
24 Chapter.
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26 oo) "SUPERINTENDENT" - the Superintendent of the Sewage
27 Treatment Plant (Water Pollution Control Plant) of the
28 City, or his duly authorized representative.
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30 pp) "SUSPENDED SOLIDS" - solids which either float on the
31 surface of or are in suspension in water, sewage or other
32 liquid and which are removable by laboratory filtration.
Their concentration is expressed in milligrams per liter.
Quantitative determinations are made in accordance with
procedures set forth in "Standard Methods."
qq) "USER CHARGE" - a charge imposed on users of a treatment
works to defray the cost of operation, maintenance and
replacement.
rr) "WASTE SURVEILLANCE CHARGE" - a monthly charge collected
from users, qualifying as industrial or commercial class
users, to defray the cost of evaluating that user's waste
by metering, sampling, laboratory analysis and/or other
methods deemed necessary. Said charges are set forth in
Article VII and are subject to review annually as
provided in Section 24-41.
ss) "WATERCOURSE" - a channel in which the flow of water
occurs either continuously or intermittently.

Sec. 24.2. Rules and Regulations-Board of Works Authority.

The Board of Public works of the City shall, in accordance with the Statutes of the State of Indiana, and subject to the provisions and requirements of this Chapter, make and enforce appropriate rules and regulations for the safe, economical and efficient management and operation of the City's Sewage Works, for the construction and use of sewers, building sewers, appurtenances and connections to the sewerage system; for the regulation, collection and refunding of rates and charges for sewerage service; and for the implementation of the provisions of this Chapter.

Sec. 24.3. Requirements for Connection to Public Sewers.

- a) No owners of or persons controlling any real property shall tap or drain either directly or indirectly into any public sewer until a sewer tap permit has been obtained from the City and until owner has satisfied the obligation to pay all assessments, reimbursements and pro rata shares of sewer extension costs laid against that property for public sewers which serve it. A sewer tap permit given in error shall not operate to nullify and such obligation that has been duly recorded nor estop the City from charging and collecting such costs at any subsequent time.
- b) Notwithstanding the foregoing, the Sewage Works may, in accordance with policies and procedures adopted by the Board of Public Works and from time to time, permit any persons to tap or drain into a public sewer and to deter, in whole or in part, payment of the obligation, upon the execution and delivery to the Sewage Works of a note, mortgage, lien document or other evidence of obligation acceptable to the Sewage Works.
- c) All such deferred obligations shall be considered for the purposes of Indiana Code Section 36-9-23-31 through 36-9-23-34 to be fees assessed against real property.
- d) Installments of deferred obligations, including any finance charges or interest chargeable thereon, shall be deemed to be "charges for sewerage service" for the purposes of Articles VIII and IX of this Ordinance.
- e) Sewer tap permits shall be obtained from the City's New Water and Sewer Permit Office and shall be issued only to licensed sewer tap contractors, who shall pay to the Sewage Works a fee of fifty dollars (\$50.00) for each sewer tap permit for a standard six-inch service, a fee of ninety dollars (\$90.00) for each sewer tap permit for a special six-inch service (such as a sewer tap into a collection system manhole) and a fee of ninety dollars (\$90.00) for each sewer tap permit for a sewer service larger than six-inches. The aforementioned charges will apply to similar types of taps into the City storm sewer system. Not later than 48 hours after making each sewer tap and building of the sewer installation, the tap contractor or property owner shall notify the New Water and Sewer Permit Office of such connections so that an inspection may be made by the Sewage Works prior to backfilling the said sewer installation.
- f) No person shall connect any roof downspout, exterior foundation drain, or other source of surface runoff or groundwater to a building sewer or building or house drain which is connected either directly or indirectly to a sanitary sewer of the City.
- g) The Board of Public Works shall have the authority to require an owner of real property to disconnect any downspouts, yard drains or other drains which carry the runoff of natural precipitation from a building sewer which drains into a sanitary sewer. Property owners shall have thirty (30) days after notice thereof to comply with any such requirement.
- h) A new connection may be made to a City sewer or sewers connected to the City system only after there has been adequate assurance by the City that the downstream facilities of the Sewage Works have adequate capacity to transmit and treat the new waste loadings.

- 1 i) No person shall make use of a sewer tap or back-fill or
2 otherwise conceal a sewer installation unless and until
3 the same has been inspected and approved by the Sewage
4 Works. In addition to all other remedies, the Sewage
5 Works may cause the said installation of sewer tap to be
6 excavated and exposed, may terminate the connection and
7 may require the owner or occupant to pay or reimburse the
8 Sewage Works for its costs and expenses in such
9 excavation, exposure, termination, reconnection and
10 restoration. Such costs and expenses shall be considered
11 as charges for sewerage treatment services and may be
12 collected in accordance with the provisions of Indiana
13 Code 36-9-23-31 through 36-9-23-34 and Article IX of this
14 Chapter.
- 15 j) No person shall construct any combination sewers without
16 the express written consent and approval of the Board of
17 Public Works.
- 18 k) The Board of Public Works shall have the authority to
19 require that new construction tributary to any combined
20 sewer be designed to minimize or delay inflow
21 contribution to the existing combined sewerage system.
- 22 m) The Board of Public Works shall have the authority to
23 require that for any new building any storm sewer
24 connection to any combined sewer shall be made separate
25 and apart from the sanitary sewer connection in order to
26 facilitate future disconnection from the combined sewer
27 in the event a separate storm sewer subsequently becomes
28 available.

17 **Sec. 24.4. Extensions of Sewers Outside Corporate Limits.**

18 The installation, construction, or extension of sanitary
19 sewers by private developers or by the City outside the
20 corporate limits of the City and the connection of said
21 sanitary sewers into the City's sewage system from, by, to, or
22 for properties located outside such limits is prohibited,
23 except with the approval of the Board of Public Works by duly
24 enacted resolution, provided that a resolution ratifying and
25 agreement and/or contract for such construction and connection
26 shall be deemed to constitute such approval.

23 **Sec. 24-5. Connections to Sewerage System by Certain Out-**
24 **of-City Properties.**

25 Notwithstanding the provisions of Sec. 24-4, the Board of
26 Public Works shall have the authority to permit a property
27 located outside the corporate limits of the City to connect to
28 an existing sanitary sewer which is part of the City's
29 sewerage system, when the property abuts, adjoins or is
30 immediately contiguous to the street, alley or easement in
31 which such sewer is located and provided the property owner or
32 occupant has complied with the requirements prescribed by Sec.
24-3 of this Chapter.

29 **Sec. 24-6. Enforcement.**

30 Those provisions of this Chapter not specifically dealt with
31 elsewhere shall be enforced by the Superintendent of the Water
32 Pollution Control Plant and such deputies as he, with the
approval of the Board of Public Works, may appoint for such
purposes. Whenever said Superintendent or any such deputy
shall deem it appropriate to charge any person with a
violation(s) of this Chapter, he shall issue to such person a
Notice of Violation and/or Summons, which shall be processed

according to the provisions of Indiana Code (34-4-32-1) and sewer rules and regulations.

Sec. 24-7. Penalty for Violations.

Any person who violates or fails to comply with any provision of this Chapter or of the Rules and Regulations of the Board of Public Works or Administrative Orders pertaining thereto, shall be deemed to have committed a Class B infraction and upon conviction thereof be subject to a fine of up to \$1,000.00 per infraction as provided by Indiana Code 34-4-32-4. Each day that such violation(s) or noncompliance continues shall constitute a separate offense.

Sec. 24-8. Damage to City Property Prohibited.

It shall be unlawful for any unauthorized person to maliciously, willfully or negligently break, damage, destroy, remove, deface or tamper with any structure, appurtenance or equipment which is part of the City sewage system, the City's Water Pollution Control Plant or property of others assigned to the City for operation and maintenance and shall be liable for damage.

Sec. 24-9. Dilution.

It shall be unlawful for any person to increase the use of potable water or process water in any way, or mix separate waste streams for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with pretreatment standards or requirements. The City may impose discharge limitations on any persons using dilution to meet applicable pretreatment standards or discharge permit requirements. The City may also impose discharge limitations in other circumstances deemed appropriate by the Board of Public Works.

Sec. 24-10. Accidental Discharges.

- a) Each person shall provide protection from accidental discharge of prohibited or regulated materials or substances to sewers of the City of Fort Wayne. Where necessary, procedures and facilities to prevent the accidental discharge of prohibited materials shall be provided and maintained at said discharger's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Superintendent for review, and be approved by the City before construction of the facility. Review and approval of plans and operating procedures by the City shall not relieve the discharger from the responsibility to modify its facility as necessary to meet applicable federal, state and local requirements.
- b) All responsible persons shall notify the Superintendent of the Water Pollution Control Plant, or his representative, immediately when a "slug load" or accidental discharge occurs. A written report shall be submitted within five (5) days of the incident. The notification must include the location of the discharge, date and time of occurrence, type of waste, concentration and volume and corrective actions taken. Any person who discharges a "slug load" of prohibited materials will be liable for any expense, including loss or damage to the City's sewerage system and treatment facilities in addition to the amount of any fines imposed upon the City under state or federal law.

- 1 c) Signs must be permanently posted in conspicuous places on
2 the dischargers' premises, advising employees whom to
3 call in the event of an accidental discharge. Employers
4 shall adequately instruct all employees who may cause or
5 discover such discharges of the emergency notification
6 procedures.

7 **ARTICLE II - PERMITTED COMMERCIAL AND INDUSTRIAL WASTES**

8 **Sec. 24-11. Prior Approval for Certain Wasters.**

9 Review and acceptance by the Superintendent shall be obtained
10 prior to the discharge into the sewage works sewers by any
11 persons having sewage wastes which contain:

- 12 a) Either a BOD content greater than 300 milligrams per
13 liter or a COD greater than 600 milligrams per liter.
14 b) A suspended solids content greater than 300 milligrams
15 per liter.
16 c) A phosphorus content greater than 10 milligrams per
17 liter.
18 d) An ammonia content greater than 25 milligrams per liter.
19 e) Other contaminants which either from their constituents
20 or quantities will: (a) interfere with the operation of
21 any portion of the Sewage Works; (b) pass through the
22 treatment works or otherwise be incompatible with such
23 works; (c) prevent the reclamation and/or recycling of
24 municipal or industrial wastewaters and sludges.

25 **Sec. 24-12. Pretreatment Facilities - General.**

26 When, after making such a review, the Superintendent concludes
27 that, before the person discharges waste into the public
28 sewers, the person must modify or eliminate those constituents
29 which would be harmful to the structures, processes, or
30 operations of any portion of the Sewage Works or injurious to
31 the health of the general public, then that person shall
32 either modify the wastes at the point of origin or shall
provide and operate, at said person's expense, such treatment
and processing facilities as may be deemed necessary to render
said person's waste acceptable for admission to the public
sewers.

Sec. 24-13. Pretreatment Facilities - Prior Approval.

Plans, specifications and any other pertinent information
relating to proposed treatment or processing facilities shall
be submitted to the Superintendent for examination and
approval. No construction of such facilities shall begin
until the Superintendent has given written approval. Such
approval shall not exempt the person from the obligation to
make further reasonable adaptations of such facilities when
such adaptations prove necessary to secure the results of
acceptable waste concentrations desired. The approval of
proposed facilities and/or equipment by the Superintendent
does not in any way guarantee that such facilities and/or
equipment will function in the manner described by the
person's constructor or the manufacturer of said facilities
and equipment, nor shall such approval relieve any person of
the responsibility of enlarging or otherwise modifying such
facilities to accomplish the intended purposes.

Sec. 24-14. Pretreatment Facilities - Operation.

Where pretreatment facilities are provided pursuant to the Superintendent's approval, they shall be maintained continuously in satisfactory and effective operating condition at the person's expense and shall be subject to periodic and random inspection and sampling by the City. The person responsible for such facilities shall maintain suitable operating records which shall be open to inspection by the City, and shall submit to the Superintendent such monthly summary reports of the character of the influent and effluent of the facilities as the Superintendent may require. All records and reports shall be retained for a minimum of three (3) years. All industry whether defined as Categorical or Non-Categorical Industry by state and federal regulations shall comply with all requirements of 40 CFR 403.12.

Sec. 24-15. Federal Pretreatment Standards.

As part of this Ordinance the City shall enforce all federal pretreatment standards including but not limited to Categorical Pretreatment Standards upon persons within its service area or within the service area of any Contract Customers.

ARTICLE III - Prohibited Commercial, Industrial and Institutional Discharges.

Sec. 24-16. Prohibitions and Limitations.

Except as hereinbefore provided, no person shall discharge or cause or permit to be discharged into the public sewer any of the following described substances, wastes or waters:

- a) Any liquid or vapor having a temperature greater than 140° Fahrenheit.
- b) Any waters or wastes containing more than 100 milligrams per liter of grease, oils, fats or waxes.
- c) Any gasoline, benzene, naphtha, fuel oil, mineral oil or any other flammable or explosive solid, liquid or gas.
- d) Any noxious or malodorous gas or substance which either alone or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into the sewers of their maintenance or repair.
- e) Any garbage that has not been properly pretreated and reduced per Sec. 24-1(p).
- f) Any ashes, cinders, sand, mud, straw, shavings, wood, metal, glass, rags, feathers, tar, plastics, paunch manure, butchers' offal or any other solid or viscous substances capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewerage system or the Sewage Treatment Plant.
- g) Any waters or wastes having a pH less than 6.0 or greater than 10.0 or having any other corrosive property capable of causing damage or posing hazards to the structures, equipment or personnel of the Sewage Works.
- h) Any waters or wastes containing toxic substances, as defined under Section 307 (b) and (c) of the Clean Water Act in sufficient quantity to interfere with the biological process of the Sewage Treatment Plant or that

will pass through the Plant into the receiving stream in amounts exceeding the standards set forth by federal, interstate, or other competent authority having jurisdiction, or will prevent the disposal of the sludges by the Plant in accordance with Section 405 of said Act.

- i) Any toxic radioactive isotopes, without a special permit. The radioactive isotopes of I 131 and P 32 used in hospitals are not prohibited, if they are properly diluted before being discharged into the sewerage system, as further defined in the General Rules and Regulations.
- j) Any waters or wastes that for a duration of 15 minutes or more have a concentration more than 5 times the average concentration of BOD or suspended solids of the user's sewage discharged during a 24 hour period of normal operation.
- k) Any waters or wastes containing suspended solids of such character and quantity that unusual provisions, attention and expense would be required to handle such materials at the Sewage Treatment Plant, its pumping stations or other facilities.
- l) Any waters or wastes containing incompatible pollutants as herein described.
- m) Any waters or wastes containing any toxic substances in quantities that are sufficient to interfere with the biochemical processes of the Sewage Treatment Plant, that will pass through the plant into the receiving waters or accumulate in the sludges in an amount exceeding the limitations, set forth by any federal, state, interstate or local limitations whichever is more stringent. Specifically excluded are any waters or wastes containing toxic ions, compounds, or substances in concentrations or amounts exceeding the limitations set forth by the Board of Public Works and published in the General Rules and Regulations.
- n) Any bulk waste, either industrial or domestic, without prior written approval of the Superintendent.
- o) Any substances with objectional color not removed by the treatment process, such as, but not limited to dye waste and vegetable tanning solutions.
- p) The City reserves the right to refuse, deny or revoke the connection of any user in the event the sewerage service requirements of the user, in the judgment of the Superintendent could or would impose an excessive burden on the Sewage Works or in the event the user is or has been repeated violation of this Ordinance. The City further reserves the right in the event of any emergency, to restrict the allowable discharge received from any or all large users of the sewerage system during the time of such emergency.
- q) Pollutants which create a fire or explosion hazard in the City's treatment works or sewage system, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit, or 60 degrees centigrade using test methods specified in 40 CFR 261.21.

Sec. 24-17. Responsibility for Obstructing or Damaging Sewers.

If a public sewer becomes obstructed or damaged because any of the aforementioned substances were improperly discharged, the person or persons responsible for such discharges shall reimburse the City for the expenses incurred by the City for cleaning out, repairing, rebuilding the sewer or for any litigations or damage claims resulting therefrom, including legal fees and court costs. For multiple offenders, each responsible person shall be assessed a proportionate percentage of the damage.

ARTICLE IV - Control of Admissable Industrial, Commercial and Institutional Wastes.

Sec. 24-18. Submission of Data on Industrial Waste.

- a) Any person who discharges industrial waste into the City's sewerage system either directly or indirectly, shall forthwith fill out and file, with the Superintendent, an Industrial Waste Questionnaire, baseline monitoring report or permit application, the form for which will be furnished by the City, in which shall be set forth the quantity and characteristics of the wastes discharged into the City's sewerage system. Any owner desiring to establish a new connection to the public sewer or to establish a new account with Sewage Works for the purpose of discharging industrial or commercial waste shall ninety (90) days prior to discharge first fill out and file with the Superintendent such a questionnaire, baseline monitoring report or permit application, which shall contain the actual or predicted data relating to the quantity and characteristics of the wastes to be discharged. After review of the submitted documents and permit application, the Superintendent shall issue an industrial wastewater discharge permit which shall contain conditions and requirements with which the person shall comply.
- b) Any person who adds, changes, modifies or proposes to change manufacturing or pretreatment processes shall first notify the Sewage Works, in writing, and submit a new or revised Industrial Waste Questionnaire for review by the Superintendent.
- c) Any person who knowingly makes any false statement, representation or certification in any application, report or other document required by the municipal ordinance or other applicable regulations shall, upon conviction be punished by the imposition of a criminal penalty as required by local and/or State statutes.
- d) When special circumstances render it an unreasonable burden to comply with the time schedule determined by the Sewage Works for the correction of any industrial waste discharge problem, an extension of time, not to exceed 90 days, may be granted by the Superintendent upon presentation in writing of an application for such relief.

Sec. 24-19. Confidential Information.

Information and data furnished to the City by any person shall be made available to the public or other governmental agency without restriction unless the person specifically requests and is able to demonstrate in accordance with 40 CFR 2.203 and 330 IAC 5-1.5-8 that the release of such information would divulge information and/or methods of production entitled to protection as trade secrets or proprietary information of said

person. However, under no circumstances may the volume or the components of the discharge be considered confidential. All requests, by the person, for confidentiality of information shall be made in accordance to and governed by the provisions of 330 IAC 5 and 40 CFR 2.

Sec. 24-20. Control Manholes.

Any person who discharges or may discharge industrial wastes into a public sewer via any means such as floor drains, sinks, catch basins, etc., shall be required by the Superintendent to construct and maintain, at his own expense, one or more control manholes, at a specified location or locations, to facilitate the observation, measurement and sampling of owner's waste. Such manholes shall be constructed in accordance with the standards and specifications of the City. The Superintendent may also require the person to install and maintain in any such manhole, at said person's expense, an approved volume-measuring device. Plans and/or shop drawings for the installation of control manholes and related equipment shall be approved by the Superintendent before any construction is begun.

Sec. 24-21. Grease and Sand Traps.

Whenever the Superintendent determines that interceptors or traps are needed to protect the City's sewerage collection system or the City's Treatment Plant from grease, oil, sand or similar substances occurring in any person's sewage and so notifies said person, then such traps shall be promptly installed by said person, at said person's expense and shall be so maintained by that person that none of such substances can be discharged or carried over into the public sewers. All traps or interceptors shall meet the City's standards as to construction, location and installation.

Sec. 24-22. Waste Sampling.

- a) Any person shall be subject to periodic and random inspections by the City for the purpose of determining compliance with permit limitations, solvent management plans or spill prevention plans, identifying dilution streams or to categorize regulated processes. These inspections may consist of monitoring waste streams, inspection of the premises, inspection and/or copying of production records, pretreatment operating records and other records or data deemed necessary by the inspector for the purposes stated above.
- b) The installation, operation and maintenance of the sampling facilities shall be the responsibility of the person discharging the wastes and shall be subject to the approval of the Superintendent. Access to the sampling facilities shall be granted, at all times, to the Superintendent.
- c) Where any person's operations have security measures in force which require proper identification and clearance before entry onto said person's property is granted, such person shall make the necessary arrangements with their security personnel that upon showing of proper identification personnel from the City shall be permitted to enter, without delay, for the purpose of observing or monitoring of wastes being discharged at a given point or points or that person shall install suitable control manholes outside of the security area or areas, which at

all times will be immediately available to City personnel.

Sec. 24-23. Waste Analysis Procedures and Charges.

Laboratory procedures used in the examination of industrial wastes shall be those set forth in "Standard Methods", Code of Federal Regulations 40 CFR 136 or approved EPA methods.

- a) **CHARGES TO USERS** - alternate methods for certain analyses of commercial, industrial or institutional estates may be used subject to mutual agreement between the Superintendent and the user. In the event of a dispute between the Superintendent and the user as to the characteristics, strength, toxic nature or other particulars of the sample taken and analyzed by the City, either party may request that the sample in dispute be analyzed by a mutually acceptable referee whose charges shall be paid by the party requesting the analysis. Analyses made by the City at the request of the user, shall be charged to the user according to the Sewage Works' standard work order billing procedure. All such analyses shall be binding in determining strength-of-waste surcharges and other matters dependent upon the character and concentration of wastes.
- b) **CHARGES TO GOVERNMENTAL AGENCIES** - analyses performed by the Water Pollution Control Plant Laboratory for any governmental agency, or political sub-division of a city, county or state shall be billed to such agency or sub-division for direct labor and expenses according to the Sewage Works' standard work order billing procedure. Analyses performed for other agencies shall not have priority over the regular Water Pollution Control Plant analyses unless in the judgment of the Superintendent the urgency of the analyses warrants such priority.
- c) **CHARGES OF OUTSIDE SERVICES** - Analyses performed by the Water Pollution Control Plan Laboratory for any person shall be billed at the rate established by the Water Pollution Control Plan Laboratory for such analyses.
- d) **CHARGES COLLECTED** - All waste analysis charges collected under Section 24-23-a) and b) above shall be recorded as credits to the operating costs of the Water Pollution Control Plant and a quarterly accounting thereof shall be forwarded to the Superintendent. All such charges are to be used to defray the operation and maintenance expenses incurred by the Water Pollution Control Plant in performing said analyses.

Sec. 24-24. Use of Representative Analysis.

Until an adequate analysis of a representative sample of user's wastes has been obtained, the City may, for the purpose of this Chapter, make a determination of the character and concentration of the wastes by using data based on analysis of similar processes or data for this type of business that are available from the United States Environmental Protection Agency or from industry-recognized authoritative sources. This method, if selected by the City, shall continue at the City's pleasure or until an adequate analysis has been made.

ARTICLE V. SERVICE CHARGE BASED ON WATER USAGE

Sec. 24-25. Water Obtained from the City's Water Utility.

The charges made for sewerage service rendered to each lot, parcel of real estate or building having any connection with the City's sewerage system or otherwise discharging sewage into the system, either directly or indirectly, shall be based upon the quantity of water presumed to enter the public sewers after being used in or on the property, as the quantity is measured by the water meter or meters there in use by the City's Water Utility, except as herein otherwise provided.

Sec. 24-26. Water Obtained from Other Sources.

Where the property obtains any part or all of the water used from sources other than the City's Water Utility, the owner or the tenant may be required by the City to install and maintain at the user's own expense a meter or meters acceptable to the City for the quantity of water obtained from these other sources.

Sec. 24-27. Exempt Water - General.

Where a significant portion of the metered water does not and cannot enter the sewerage system, either directly or indirectly, the person having charge of the property may request permission from the City to install at the user's expense either an approved meter or meters to determine the quantity of water that cannot enter the sewerage system or an approved sewage-measuring device or devices to determine the volume of sewage that actually enters the sewerage system. In any case the service charge shall be based on the quantity of water that can or actually does enter the public sewers but in no case shall it be less than the minimum charge for the class of user served.

Sec. 24-28. Metering of Sewage.

The City may require a person to install and maintain at the user's expense an approved device to measure directly the volumes of wastes discharged to the sewerage system if those volumes cannot otherwise be determined from the metered-water consumption records. The City shall inspect and approve such installation and no such services, once installed, shall be removed without the City's approval.

Sec. 24-29. Reserved.

ARTICLE VI. USER CHARGES

Sec. 24-30. Residential User Charges.

Charges for services rendered shall be based on metered water consumption unless otherwise measured in accordance with the following charges for this classification of service:

Service Charge (Cents per 100 cu. ft.)

Treatment	41.01
Conveyance, Collection, Billing	22.19
Capital	<u>11.98</u>
Total User Charge	<u>75.18</u>

User Minimum Charges and Other Fixed Payments

In the event the monthly sewage Service Charge calculated in accordance with the schedule above does not exceed the minimum monthly charge for each class of user as set forth hereafter,

user shall pay said minimum monthly charge, in lieu of the charge calculated based on water usage, as follows:

<u>Water Meter Size</u>	<u>Minimum Monthly Charge</u>
5/8 - 3/4"	\$ 3.63
1 - 1 1/2"	12.82
2"	26.50
3"	53.30
4"	88.60
6" or larger	246.00

User Flat Charges

In the event that any user in this classification is not a metered water customer, there shall be imposed flat charge rates as follows:

<u>Classification of Customer</u>	<u>Monthly Flat Charge (1)</u>
	<u>In City</u> <u>Out-City</u>
Residential User-Single Family Dwelling	\$7.52 \$9.00
Residential User-Multi Family Dwelling	To be estimated by City

- a) Monthly flat charges for multi-family dwellings shall be based on the number of family units accommodated by the system multiplied by the single family dwelling monthly charges.

The Utility shall retain documentation supporting its estimates and the billings based thereon. Such determination of billings may be reviewed and adjusted by the Utility at any time. However, no adjustment, additional charge or refund may be made more than six (6) years after the due date of the billing sought to be adjusted.

Inbalco Capital Surcharge - per month \$4.65

Sec. 24-31. Industrial User Charges.

Charges for services rendered shall be based on metered water consumption unless otherwise measured in accordance with the following charges for this classification of service:

<u>Service Charge (Cents per 100 cu. ft.)</u>	
Treatment	41.01
Conveyance, Collection, Billing	22.19
Capital	<u>11.98</u>
Total User Charge	<u>75.18</u>

User Minimum Charges and Other Fixed Payments

In the event the monthly sewage Service Charge calculated in accordance with the schedule above does not exceed the minimum monthly charge for each class of user set forth hereafter, user shall pay said minimum monthly charge, in lieu of the charge calculated based on water usage, as follows:

<u>Water Meter Size</u>	<u>Minimum Monthly Charge</u>
-------------------------	-------------------------------

5/8 - 3/4"	\$ 3.63
1 - 1 1/2"	12.82
2"	26.50
3"	53.30
4"	88.60
6" or larger	246.00

Other Industrial User Charges

- 1) Monthly billing charge - per bill \$3.15
- 2) Excess Strength of Wastes Surcharge - in the event an industrial user contributes waste having strength of sewage in excess of domestic waste characteristics, as hereinbefore defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:

Cents Per Pound

Suspended Solids - (SS)	\$ 6.12
Biochemical Oxygen Demand - (BOD)	6.79
Phosphorus - (P)	55.14
Ammonia - (NH-3)	16.73

User Flat Charges

In the even any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City.

Sec. 24-32. Commercial User Charges

Charges for services rendered shall be based on metered water consumption unless otherwise measured in accordance with the following charges for this classification of service:

Service Charge (Cents per 100 cu. ft.)

Treatment	41.01
Conveyance, Collection, Billing	22.19
Capital	<u>11.98</u>
Total User Charge	<u>75.18</u>

User Minimum Charges and Other Fixes Payments

In the event the monthly sewage Service Charge calculated in accordance with the schedule above does not exceed the minimum monthly charge for each class of user as set forth hereafter, user shall pay said minimum monthly charge, in lieu of the charge calculated based on water usage, as follows:

<u>Water Meter Size</u>	<u>Minimum Monthly Charge</u>
5/8 - 3/4"	\$ 3.63
1 - 1 1/2"	12.82
2"	26.50
3"	53.30
4"	88.60
6" or larger	246.00

User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge rate estimated by the City.

Inbalco Capital Surcharge - per month \$4.65

Other commercial User Charges

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as hereinbefore defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

Sec. 24-33. Institutional User Charges.

Charges for services rendered shall be based on metered water consumption unless otherwise measured in accordance with the following charges for this classification of service:

Service Charge (Cents per 100 cu. ft.)

Treatment	41.01
Conveyance, Collection, Billing	22.19
Capital	<u>11.98</u>
Total User Charge	<u>75.18</u>

User Minimum Charges and Other Fixed Payments

In the event the monthly sewage Service Charge calculated in accordance with the schedule above does not exceed the minimum monthly charge for each class of user set forth hereafter, user shall pay said minimum monthly charge, in lieu of the charge calculated based on water usage, as follows:

<u>Water Meter Size</u>	<u>Minimum Monthly Charge</u>
5/8 - 3/4"	\$ 3.63
1 - 1 1/2"	12.82
2"	26.50
3"	53.30
4"	88.60
6" or larger	246.00

Other Institutional User Charges

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as hereinbefore defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City.

Inbalco Capital Surcharge - per month \$4.65

Sec. 24-34. Governmental User Charges.

Charges for serviced rendered shall be based on metered water consumption unless otherwise measured in accordance with the following charges for this classification of service:

Service Charge (Cents per 100 cu. ft.)

Treatment	41.01
Conveyance, Collection, Billing	22.19
Capital	<u>11.98</u>

Total User Charge 75.18

User Minimum Charges and Other Fixed Payments

In the event the monthly sewage Service Charge calculated in accordance with the schedule above does not exceed the minimum monthly charge for each class of user set forth hereafter, user shall pay said minimum monthly charge, in lieu of the charge calculated based on water usage, as follows:

<u>Water Meter Size</u>	<u>Minimum Monthly Charge</u>
5/8 - 3/4"	\$ 3.63
1 - 1 1/2"	12.82
2"	26.50
3"	53.30
4"	88.60
6" or larger	246.00

Other Governmental User Charges

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as hereinbefore defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City.

Inbalco Capital Surcharge - per month \$4.65

Sec. 24-35. Contract Customers - Unit and Other Charges.

In the event the City consummates a contract to serve as a regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for the following unit charges:

a) Volume Charge (cents per 100 cu. ft.).

Treatment	41.01
Capital Charge	.25
	<u>41.26</u>

b) Variable Charge (cents per 100 cu. ft.).

A variable charge for conveyance and collection costs attributable to the portion of the conveyance system and operating costs associated therewith used by the contract customer shall be computed by the City and added to the volume surcharge.

c) Flat Charge.

In addition to the foregoing charge based on volume of sewage treated and conveyed each contract customer will pay a monthly billing charge of \$3.15 and a monthly surveillance charge of \$146.65.

d) Excess Strength of Waste Surcharge.

In the event an institutional user contributes waste having a toxic strength in excess of domestic waste characteristics, as hereinbefore defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:

	<u>Cents Per Pound</u>
Suspended Solids - (SS)	\$ 6.12
Biochemical Oxygen Demand - (BOD)	6.79
Phosphorus - (P)	55.14
Ammonia - (NH-3)	16.73

e) Capital Surcharge.

In the event a contract customer delivers sewage for treatment to City for a period of 90 consecutive days which is in excess of base MGD contracted for, then customer will be subject to an additional capital charge computed at the capital charge (per 100 cu. ft.) then in effect times the excess percentage of MGD represented by dividing actual MGD by contracted MGD.

f) Other Provisions.

In the event sewage received pursuant to any contract entered into under this section exceeds any of the limitations imposed by this Chapter, the City shall have the right to impose all charges, limitations and penalties applicable to any non-contract user by the City. Each contract entered into by the City pursuant to the foregoing rate classification shall provide that the contract customer shall agree to enact and maintain a Sewer Use Ordinances and User Charge System acceptable to the City and in conformance with the City's obligations under Sec. 204 (b) (1). Public Law 92-500 as amended and supplemented and guidelines and regulations promulgated thereunder by the U.S. Environmental Protection Agency and 40 CFR 35-905-8, 35-928-1 and 35-928-2 and 35-935-13.

Sec. 24-36. Bulk Waste Charges.

Industrial - for all industrial waste suitable for disposal directly through the plant digestors which as been delivered by the Customer to City's plant - \$287.50 per load. For purposes of computing charges hereunder, a load is defined as 5,000 gallons of tank capacity or fraction thereof.

Domestic - for all domestic waste delivered to plant by customer's truck or tank - \$37.25 per load. For purposes of computing charges hereunder, a load is defined as 1,000 gallons of tank capacity or fraction thereof.

Sec. 24-37. Annual Review of Service Charges.

Prior to May 1 of each year, the Chief Financial Officer of the City and an independent certified public accountant employed for that purpose shall submit to the Board of Public Works a comparison of the calculated unit cost for flow, removal of BOD, suspended solids and phosphorus per year, with the unit charges currently in effect from which the Board shall determine whether the current service charges and surcharges are adequate or should be changed. The methodology utilized in developing this cost comparison shall include:

- a) A system including the distribution of the cost of operation and maintenance of the treatment works of the

WPC Utility to each user class in proportion to such user's contribution to the total waste loading of the treatment works. Factors such as strength, volume and delivery flow characteristics shall be considered and included as the basis for the user's contribution to insure a proportional distribution of operation and maintenance and replacement costs to each user class.

- b) Total annual service charges and surcharges collected from each individual user class shall be deemed sufficient if said charges have generated during the prior operation period sufficient revenue to offset the cost of all treatment works operation and maintenance provided by the Utility, including cost of management, system repair and replacement, debt retirement and other costs incidental to the Utility Operation attributable to such class.

ARTICLE VII. - STRENGTH-OF-WASTES SURCHARGE.

Sec. 24-38. Liability for Surcharge.

Each user discharging wastes into the sewerage system shall be subject to a strength-of-wastes surcharge, in addition to other sewage service charges imposed by this ordinance, based on the following minimum strength characteristics to the extent that such wastes are in concentrations greater than:

- a) Biochemical oxygen demand of 300 milligrams per liter.
- b) Chemical oxygen demand of 600 milligrams per liter.
- c) Suspended solids content of 300 milligrams per liter.
- d) Phosphorus content of 10 milligrams per liter.
- e) Ammonia content of 25 milligrams per liter.

Sec. 24-39. Computation of Surcharge.

The surcharge shall be determined as follows:

The excess pounds of BOD or COD (whichever results in the higher charge) suspended solids, phosphorus and ammonia will each be computed by first multiplying the user's billing sewage volume measured in units of 100 cubic feet for the current billing period by the factor 0.0062321 and then multiplying this product by the difference between (a) the concentrations measured in milligrams per liter, of the BOD (or COD), suspended solids, phosphorus and ammonia respectively in the user's sewage and (b) the allowed concentrations set out in Section 24-38. The surcharge for each constituent will then be determined by multiplying the excess pounds of each constituent by the appropriate rate of surcharge set out in Section 24-31. In the event COD measurement is used, as hereinbefore provided, 50% of the excess pounds measured will be used to compute the equivalent BOD charge.

Sec. 24-40. Waste Evaluation Charges.

All users discharging wastes into the system requiring continuing surveillance sampling and waste evaluation shall be subject to a monthly fixed charge to cover the costs of such services in the amount of \$146.65 per discharge point. In the event any user is not in compliance with effluent discharge limitations, as set forth elsewhere herein, and such non-compliance requires additional surveillance, sampling and

waste evaluation, the user will be charged \$146.65 per occurrence.

Sec. 24-41. Revision of Rates Surcharge.

Prior to May 1 of each year, the Chief Financial Officer of the City and an independent certified public accountant employed for that purpose shall submit to the Board of Public Works a comparison of the calculated unit costs for removing BOD, suspended solids, phosphorus and ammonia from the Sewage Treatment Plant influent during the previous calendar year with the unit charge currently in effect in order that the Board may determine whether the current rates of surcharges are adequate or should be changed and request legislative enactment of said changes by the Common Council.

ARTICLE VIII. - BILLING OF SERVICE CHARGES

Sec. 24-42. Billing Period.

- a) Charges for sewerage services shall be computed and billed by the General Office of the City Utilities. Bills shall be rendered approximately monthly, unless additional billing is required to reflect customer changes, meter changes, service terminations, initial billings or is otherwise required to adjust billing cycles.
- b) Billings for sewerage service shall be rendered with and shall be due and payable on the same due date as billings for water service to the same premises, if any, and if none, then within such billing cycle as the Utility may determine.

Sec. 24-43. Liability for Payment.

- a) Charges for sewerage service shall be billed to the person being billed for water service, if any, unless by contract with the Utility, another person assumes responsibility for payment. Notwithstanding billing to, and assumption of responsibility by any person, charges for sewerage service shall remain the responsibility of the owner of the real estate, who shall hold the Utility harmless from any loss occasioned by the delinquency of the person billed, including all penalties, recording fees, attorney's fees, interest, and court costs, if any.
- b) The owner of the real estate shall have the right to examine the Utility's records of billing and collection to ascertain whether such charges have been paid, and the amount thereof.
- c) Nothing herein contained shall permit the owner, or any person other than the person being billed, to inspect, examine or otherwise obtain confidential information including the income, employment, finances or social security number of the person being billed.

Sec. 24-44. First Billings.

The rates, charges and surcharges fixed in this Chapter shall extend to and cover any additional premises hereafter served, without hearing or notice. If the first billing to a new user covers a period other than a full billing month, then the charges for sewerage service for such billing shall be made in accordance with standard practice employed by the City's Water Utility.

1 **Sec. 24-45. City Subject to Charges.**

2 For sewerage services rendered to the City, or any department,
3 structure, or property, thereof, the City shall be subject to
4 the same rates and charges herein established for other
5 persons, or to rates and charges established in harmony
6 herewith.

7 **Sec. 24-46. Consolidation of Accounts.**

8 Where an industrial, commercial or other non-residential
9 enterprise is operating in a unified manufacturing or service
10 arena composed of two or more contiguous parcels of real
11 estate and is supplied with water through two or more meters,
12 upon application by the owner or his authorized agent, a
13 consolidation of the water meter readings may be made for the
14 purpose of calculating the sewerage service charge.

15 **Sec. 24-47. Notice of Capital Surcharge.**

16 The City Clerk shall certify a copy of Special Ordinance No.
17 2-233-81, enacted October 28, 1981, and all amendments
18 thereto, heretofore or hereafter adopted, and shall record
19 such certified copy in the Office of the Recorder of Allen
20 County, Indiana to provide constructive notice to the owners
21 and purchasers of real property in Adams Township and St.
22 Joseph Township that a capital surcharge may be imposed upon
23 properties connected to, or to be connected to, the City
24 Utility Sewerage System, in those areas of said townships
25 formerly served by sewerage system purchased or otherwise
26 acquired by the City Utility.

27 **ARTICLE IX. - DELINQUENT ACCOUNTS**

28 **Sec. 24-48. Delinquencies.**

29 Charges for sewerage service levied pursuant to this Chapter
30 shall be due and payable on or before the due date stated on
31 the bill. Any charge for sewerage and/or stormwater service
32 not paid by the due date shall be delinquent, and may be
33 collected, with any applied penalty, recording fees, service
34 charges, attorney's fees, interest and court costs, if any, in
35 accordance with this Chapter and with Indiana Code Sections
36 36-9-23-31 through 36-9-23-34. A penalty of ten percent (10%)
37 of the amount of the charges for sewerage service and/or
38 stormwater service shall be attached to the delinquent
39 charges.

40 **Sec. 24-49. Collection Through Shutting Off Water Service.**

41 Where the property having a delinquent account for charges for
42 sewerage service is served by the City's Water Utility, the
43 Utility may, after reasonable notice to the person being
44 billed, as provided by the Rules and Regulations of the
45 Utility adopted by the Board of Public Works, shut off water
46 service to the property. Water service shall not be restored
47 until the delinquent account, together with the costs of
48 turning off and turning on the water, shall have been paid.

49 **Sec. 24-50. Collection Through Terminating Sewer Service.**

50 In addition to all other remedies provided, the Utility may,
51 after reasonable notice to the person being billed, as
52 provided by the Rules and Regulations of the Utility adopted

1 by the Board of Works, terminate sewerage service to the
2 property. Sewerage service shall not be restored until the
delinquent account, together with the costs of terminating an
reconnecting service, shall have been paid.

3 **Sec. 24-51. List of Delinquent Fees and Penalties - Tax**
4 **Duplicates - Collection.**

5 Delinquent charges for sewerage services and/or stormwater
6 services, and applied penalties, recording fees and service
charges may be made a lien upon the property and may be
7 collected in accordance with the provisions of Indiana Code
36-9-23-32 and 36-9-23-33.

8 **Sec. 24-52. Collection Through Court Actions.**

9 In addition to the foregoing remedies, the City may recover
10 the amount of the charges for sewerage services, penalties and
11 reasonable attorney's fees in a civil action, and may
foreclose liens established by this Chapter in accordance with
Indiana Code 36-9-23-34 when the delinquent party is the
property owner.

12 **Sec. 24-53. Reserved.**

13 **ARTICLE X. - ACCOUNTING FOR SEWERAGE SERVICE CHARGES**

14 **Sec. 24-54.** The City Controller shall establish and
15 maintain, for as long as user charges and
16 surcharges are collected under the rate
schedule instituted herein, accounts for the
17 Sewage Works Improvement Fund as required by
prior ordinances relating to the issuance of
18 sewage works revenue bonds now outstanding and
further in accordance with the laws of the
19 State of Indiana relative to the deposit and
disbursement of public funds.

20 **ARTICLE XI. - STORMWATER SERVICE**

21 **Sec. 24-55. General.**

22 The Board of Public Works shall have the authority and
23 responsibility to operate and maintain the City's stormwater
24 system. Such authority shall include, but not be limited to,
25 planning, designing, financing, constructing, maintaining,
26 repairing, inspecting and managing now existing and hereafter
27 constructed stormwater facilities. In addition, the Board of
Public Works shall cause the fees and charges for stormwater
service promulgated elsewhere herein to be collected and shall
enforce the provisions of Article XI of this Chapter.

28 The Board of Public Works shall, wherever possible and most
efficiently, use the joint facilities of the Fort Wayne City
29 Utilities to manage, maintain, and construct the stormwater
facilities of the City.

30 **Sec. 24-56. Definitions.**

31 Unless the context specifically indicates otherwise the
32 meanings of the terms as used in this Article and as used in
the Rules and Regulations adopted by the Board of Public Works
for stormwater service are as set for the in Section 24-1-a,
b, d, e, f, g, j, l, m, n, r, t, u, w, x, aa, ee, gg, hh, ii,
jj, ll, mm, pp, ss as set forth hereafter respectively:

a) **Classification of Users**

- 1) "Residential User" shall include any user of the City's sewer system whose lot, parcel of real estate or building is used for domestic dwelling purposes only.
 - 2) "Commercial User" shall include any user of the City's sewer system which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under Divisions G and H, and I.
 - 3) "Home Occupational User" shall include any user of the City's sewer system whose lot, parcel of real estate or building is used primarily for domestic dwelling purposes and only secondarily for the operation of a business participated in solely by members of the family residing there.
 - 4) "Industrial User" shall include any user of the City's sewer system which is identified in Division A. B. D. or E. of the Standard Industrial Classification Manual, 1982, Office of Management and Budget, as amended and supplemented.
 - 5) "Institutional User" shall include social, charitable, religious, and educational activities such as schools, churches, hospitals, nursing homes, penal institutions, and similar institutional users.
 - 6) "Miscellaneous User" shall include legislative, judicial, administrative and regulatory activities of the federal, state, and local governments, as well as any users not assignable to other user classifications herein.
 - 7) "Small Facility" shall include any commercial, industrial, institutional or miscellaneous user whose service address consists of a facility on real estate of one acre or less, or, which possesses run-off characteristics significantly similar to a single family residential property. Also, in the case of a user facility physically connected to other such establishments; either in a single high rise, strip or building complex structure, such that acreage cannot readily be ascertained, any facility occupying ground floor square feet of 14,520 or less shall be considered a small business.
- b) "Public Stormwater Facilities" shall mean those drainage works which are located within public rights-of-way or in dedicated easements which have been accepted for maintenance by the City.
- c) "Storm Sewers", in addition to definitions elsewhere herein, shall mean the portion of a sewer intended to carry stormwater only which begins at the grating or opening where water enters said sewer, through the sewer and any other conduits to the outlet structure where water enters a channel, natural watercourse or combined sewer.
- d) "Stormwater Facilities" shall mean various drainage works under the control of the City which may include inlets, conduits, manholes, structures, channels, outlets, retention or detention basins, other structural

components and equipment designed to transport, move, or regulate stormwater.

e) "Stormwater Service Charge" shall mean a charge imposed on users of the City's stormwater collection, impounding and transportation system.

f) "Stormwater System" shall mean all constructed facilities, structures and natural watercourses under the control of the city used for collecting and conducting stormwater to, through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: inlets, conduits and appurtenant features, creeks, channels, catch basins, ditches, streams, culverts, retention or detention basins and pumping stations; and excluding therefrom, any part of the system of drains and watercourses under the jurisdiction of the Allen County Drainage Board of the State of Indiana.

Sec. 24-57. Stormwater Service Charges.

A monthly flat-rate charge for stormwater service rendered shall be charged to each sanitary sewer account within the City limits according to service address. The stormwater service charge shall be billed and collected in conjunction with the City's billing system utilized for water and sanitary sewer users.

Stormwater service charges are imposed hereunder to pay for the operation, maintenance, administration and improvement of the City's existing stormwater facilities. Factors utilized by the City to determine just and equitable fees for stormwater service are the same factors set forth in IC 36-9-23-25 for the determination of such fees for users of the City's sanitary sewerage system and treatment plant. In order to properly match the costs of providing stormwater service and charges imposed for that service, a flat charge has been established which takes more accurately into account the impervious stormwater runoff contributed by various general classes of users than does a fee based on water consumption or measurement of discharges to sanitary sewers.

The following charges for stormwater service shall apply to each of the classifications hereafter listed:

<u>Class</u>	<u>Description of User</u>	<u>Monthly Flat Charge</u>
50	<u>Residential</u> - General, Single Family	\$ 1.94
51	Multi-Unit Residential (0-8 Per Service Address)	1.94
52	Multi-Unit Residential 9-18 Per Service Address	5.49
53	Home Occupational	1.94
60	<u>Commercial</u> - General	36.93
61	Restaurants	36.93
62	Retail Stores	36.93
63	Laundries/Dry Cleaners	36.93
64	Offices	36.93
65	Car Washes	36.93
66	Gas Stations	36.93
67	Hotels/Motels/Exhibits,	36.93
68	Multi-Unit Residential >18	36.93
69	Commercial-Small Facility	5.49

70	<u>Industrial</u> - General	52.47
71	Manufacturing	52.47
72	Transportation	52.47
73	Utilities	52.47
74	Industrial Services	52.47
75	Industrial-Small Facility	5.49
80	<u>Institutional</u> - General	13.18
81	Hospitals/Nursing Home	13.18
82	Churches and Synagogues	13.18
83	Schools	13.18
84	Institutional-Small Facility	5.49
90	<u>Miscellaneous</u>	36.93
91	Inter-Departmental City	36.93
92	Miscellaneous-Small Facility	5.49

Sec. 24-58. Customer Appeals of Rate Classification.

If, in the opinion of any user, the classification into which said user was originally placed is inaccurate in light of the revised classifications by size, usage or amount of impervious surface maintained by said user, the user shall have the right to contest said classification in the following manner.

1. User shall obtain and complete a Petition to Appeal Stormwater Classification form, which shall be returned to the Customer Relations Supervisor with [a copy of a survey, lease or other] verifiable documentation supporting user's claim.
2. Upon review of user's claim, the Customer Relations Supervisor shall render a written determination that either the original classification should be affirmed or the user should be reclassified according to the Petition. The Customer Relations Supervisor's determination is subject to review by the Director of Operations for City Utilities.
3. If the user is placed in a new classification carrying a lesser rate, user shall be credited accordingly for any overpayment made from the date the original stormwater service charge was implemented. Said credit shall apply both to metered usage and the stormwater service charge, until any overpayment has been fully adjusted. If user's Petition is denied, said opinion shall be forwarded to user by certified mail, return receipt requested. User shall then have 7 days from date of receipt to request a reconsideration by the Director of Operations for City Utilities.
4. If the dispute is not resolved to the user's satisfaction through the above administrative review, any additional facts concerning the dispute shall be reduced to writing and submitted, along with a copy of the original Petition and supporting documents, to the Director of Operations. The Customer Relations Supervisor shall submit a written report of the determination in the case, along with any documents used in denying the user's claim. Thereafter, the Director of Operations shall designate a hearing officer who shall conduct, as soon as practicable, an informal hearing to determine and resolve the dispute based on the documentation submitted and any oral testimony of the user. The hearing officer shall render a written decision at the close of the hearing or within 30 days thereafter. The determination by such

1 hearing officer shall constitute the final administrative
2 determination, and shall be binding on both parties. The
3 hearing shall be electronically recorded. A transcript
of the hearing shall be provided at a cost of \$1.00 per
page.

4 5. A party or person aggrieved by the final administrative
5 determination shall have the right to judicial review of
6 such determination in accord with and pursuant to the
provisions of the Indiana Administrative Adjudication Act
(I.C. 4-21.5-3 et seq.)

7 6. Dispute or appeal of a rate classification shall not be
8 a valid reason for non-payment of the stormwater user fee
by the user.

9 **Sec. 24-59. Enforcement/Penalty for Non-Payment.**

10 Failure to pay a stormwater user fee when due shall
11 constitute a violation of this Chapter, which shall be
12 enforced by the Director of Operations for the City Utilities
13 and such deputies as the Director, with the approval of the
14 Board of Public Works, may appoint for such purposes.
Whenever said Director or any such deputy shall deem it
appropriate to charge any person with violation(s) of this
Chapter, he shall issue to such person a Notice of Violation
and/or Summons, which shall be processed according to the
provisions of Indiana Code Sec. 34-4-32-1.

15 Any user found guilty of a violation of this Section
16 shall be subject to a fine of up to \$1 per day, in addition to
17 the amount of the outstanding bill. Each day that such
18 violation(s) or noncompliance continue shall constitute a
separate offense. Any fine assessed by the Court shall be
deemed a civil judgment.

19 **Sec. 24-60. Stormwater Fund.**

20 All revenues earned and fees collected for stormwater service,
21 including but not limited to, drainage service charges, permit
22 and inspection fees, direct charges and interest earnings on
23 any unused funds shall be deposited in an Account entitled
"City of Fort Wayne Stormwater Account". Disbursements from
24 this account will be authorized by the Board of Public Works
and, as required by law, the Common Council. Such
disbursements will be used exclusively for the operation,
25 maintenance and improvement of the City's stormwater system.
26 Funds from this Account shall not revert to any City Utilities
or Civil City fund and may not be transferred for any other
purpose, including to avoid a default on bonds of any City
Utilities fund or the City.

27 **Sec. 24-61. Severability.**

28 a) The invalidity of any section, sentence, clause,
29 paragraph, part or provision of this Ordinance shall not
30 affect the validity of any other section, sentence,
31 clause, paragraph, part or provision of this Ordinance
which can be given meaning without such invalid part or
parts.

32 b) All Ordinances or parts of Ordinances and sections of the
Municipal Code of the City of Fort Wayne in conflict
herewith are hereby repealed.

c) That this Ordinance shall be in full force and effect from and after its passage, and any and all necessary approval by the Mayor and due legal publication thereof.

Paul M. Burns
Councilmember

Read the first time in full and on motion by Burns
seconded by Quill, and duly adopted, read the second time
title and referred to the Committee on _____ (and the
City Plan Commission for recommendation) and Public Hearing to be held aft-
due legal notice, at the Council Conference Room 128, City-County Building
Fort Wayne, Indiana, on Tuesday, the 10th
of September, 1991, at 7:00 o'clock P..M., E.S.

DATED: 8-27-91

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Burns
seconded by Quill, and duly adopted, placed on its
passage. PASSED YES by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>7</u>	<u>1</u>		<u>1</u>
BRADBURY		<u>✓</u>		
BURNS	<u>✓</u>			
EDMONDS	<u>✓</u>			
GIAQUINTA				<u>✓</u>
HENRY	<u>✓</u>			
LONG	<u>✓</u>			
REDD	<u>✓</u>			
SCHMIDT	<u>✓</u>			
TALARICO	<u>✓</u>			

DATED: 9-10-91

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)
(SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. 9-25-91
on the 10th day of September, 1991.

Sandra E. Kennedy ATTEST
SANDRA E. KENNEDY, CITY CLERK

SEAL
Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the 11th day of September, 1991
at the hour of 4:00 o'clock P..M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 20th day of September
1991, at the hour of 4:45 o'clock P..M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

AN ORDINANCE AMENDING CHAPTER 24 OF THE
CITY OF FORT WAYNE CODE OF LAWS.

WHEREAS, The City of Fort Wayne, through adoption of Ordinance G-17-91, has established an interim stormwater fee structure as the most equitable and appropriate method to fund the operation, maintenance and improvement of its stormwater system; and

WHEREAS, It is the purpose of this Ordinance to more accurately categorize the users of the City's stormwater system according to the impervious stormwater runoff contributed by each, and to compensate those users which were over-charged.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That Chapter 24 of the City of Fort Wayne Code of Laws be amended as follows:

CHAPTER 24

SEWERS AND SEWERAGE SYSTEM

ARTICLE I - General

Sec. 24.1. Definitions.

Unless the context specifically indicates otherwise, the meanings of the following terms as used in this Chapter and as used in the Rules and Regulations adopted by the Board of Public Works implementing the provisions of this Chapter for the Fort Wayne sewerage system are as set out below respectively:

- a) "ACT:" the Federal Water Pollution Control Act, also known as "The Clean Water Act," as amended, 33 U.S.C. 466, as referred to at I.C. 13-1-4-1.
- b) "APPLICABLE PRETREATMENT STANDARDS" - any pretreatment limit or prohibitive standard (Federal, State and/or Local) contained in the ordinance and considered to be the more restrictive with which non-domestic users shall be required to comply.
- c) "BIOCHEMICAL OXYGEN DEMAND (BOD)" - the quantity of dissolved oxygen, in milligrams per liter, required during the stabilization of the decomposable organic matter by aerobic biochemical action of sewage, sewage effluent, polluted waters or industrial wastes under standard laboratory procedures for five days at 20° centigrade. The laboratory determinations shall be made in accordance with procedures set forth in "Standard Methods" (see paragraph 24-1.(mm) below).
- d) "BUILDING (OR HOUSE) DRAIN:" that part of the lowest piping of a drainage system which receives the discharge

from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer.

"COMBINED:" a building drain which conveys both sewage and storm water or other drainage.

"SANITARY:" a building drain which conveys sewage only.

"STORM:" a building drain which conveys storm water or other drainage, but not sewage.

e) "BUILDING (OR HOUSE) DRAIN CONNECTION:" the point where the Building (or House) sewer is connected to the building drain at a location approximately three (3) feet outside the foundation wall of the building.

f) "BUILDING (OR HOUSE) SEWER" - that part of the drainage system which extends from the end of the building drain and conveys its discharge to a public sewer, private sewer, individual sewage disposal system or other point of disposal.

"COMBINED:" a building sewer which conveys both sewage and storm water or other drainage.

"SANITARY:" a building sewer which conveys sewage only.

"STORM:" a building sewer which conveys storm water or other drainage, but not sewage.

g) "BUILDING (OR HOUSE) SEWER CONNECTION" - the point where the building sewer is connected to the public sewer. This connection to the public sewer may be accomplished as follows:

1. Where a tap-in connection is employed, the point of connection shall be where the end of the building sewer meets the inside face of the sewage system and the tapping "saddle and/or joint" shall be considered part of the building sewer.
2. Where fittings (T's or Y's) are employed the connection shall be where the end of the first pipe meets the end of the fitting and the said T or Y fitting shall be considered a part of the building sewer.

h) "BULK WASTE" - any containerized solid, liquid or gaseous substance discarded or to be discarded as worthless, defective or of no use to the person discarding said substance.

i) "CHEMICAL OXYGEN DEMAND (COD)" - a measure of oxygen equivalent to that portion of the organic matter in a sample of sewage, sewage effluent, polluted waters or industrial wastes that is susceptible to oxidation by a strong chemical oxidant. The laboratory determinations shall be made in accordance with procedures set forth in "Standard Methods."

j) "CITY" - the City of Fort Wayne, Indiana.

k) "CLASSIFICATION OF USERS"

1. "RESIDENTIAL USERS" shall include any user of the City's treatment works whose lot, parcel or real estate or building is used for domestic dwelling purposes only.

2. "COMMERCIAL USER" shall include all retail stores, restaurants, office buildings, laundries and other private business and service establishments, including those identified in the Standard Industrial Classification Manual, 1972, Office of management and Budget Division I - Services.
 3. "INDUSTRIAL USER" shall include any of the City's treatment works which is identified in the Standard Industrial Classification manual, 1972, Office of Management and Budget, as amended and supplemented, under the following divisions; Division A-Agriculture, Forestry and Fishing; Division B-Mining; Division D-Manufacturing; Division E-Transportation, Communications, Electric, Gas and Sanitary.
 4. "INSTITUTIONAL USER" shall include social, charitable, religions and educational activities such as schools, churches, hospitals, nursing homes, penal institutions and similar institutional users.
 5. "GOVERNMENTAL USER" shall include legislative, judicial, administrative and regulatory activities of Federal, State and Local governments.
- l) "DWELLING:" a building, or portion thereof, under one roof used primarily as the abode of one or more persons, but not including hotels, motels, lodging or boarding houses or tourist homes.
 - m) "EFFLUENT" - the water, together with any wastes that may be present, flowing out of a drain, sewer receptacle or outlet.
 - n) "EMERGENCY" - an unforeseen circumstance or combination of circumstances that may cause an eminent endangerment to the health and/or welfare of persons, the environment, or which may interfere with the operation of the sewer collection system or the Water Pollution Control Plant.
 - o) "GARBAGE" - any solid wastes from the preparation, cooking or dispensing of food or from the handling, storage or sale of produce.
 - p) "GROUND GARBAGE" - garbage that is shredded to such a degree that all particles will be carried freely in suspension under the conditions normally prevailing in public sewers, with no particle being greater than one-half (1/2) inch in any dimension.
 - q) "INDUSTRIAL WASTES" - any solid, liquid or gaseous substance or form of energy discharged, permitted to flow or escape from an industrial, manufacturing, commercial or business operation or process or from the development, recovery or processing of any natural resource carried on by any person.
 - r) "INFLUENT" - the water, together with any wastes that may be present, flowing into a drain, sewer, receptacle or outlet.
 - s) "MAJOR INDUSTRIAL USER" - a user of the City-owned treatment works that: (a) has a flow of 25,000 gallons of process water or more per average work day discharged to the City's treatment works (excluding sanitary, non-contact cooling and boiler blowdown wastewater); (b)

has a flow of waste greater than 5% of the flow carried by any part of the City system receiving the waste; (c) has in its waste, a toxic pollutant in amounts as defined in standards issued under Section 307 (a) of the Federal Act; or (d) is found by the Indiana Department of Environmental Management, in connection with the issuance of the NPDES Permit to the City-owned treatment works receiving the waste, to have significant impact whether singularly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works.

- t) **"NORMAL DOMESTIC SEWAGE"** - sewage having an average daily suspended solids concentration of not more than 300 milligrams per liter, an average daily BOD concentration of not more than 300 milligrams per liter, an average daily COD concentration of not more than 600 milligrams per liter, an average daily phosphorus concentration of not more than 10 milligrams per liter, and an average daily ammonia concentration of not more than 25 milligrams.
- u) **"NPDES PERMIT"** - the National Pollutant Discharge Elimination System Permit issued by the Indiana Department of Environmental Management for discharges of waste waters to navigable waters of the United States pursuant to Section 402 of 33 U.S.C. 466.
- v) **"OPERATION AND MAINTENANCE COSTS"** - all costs direct and indirect, other than debt services including replacement costs as defined in paragraph 24.1.(bb), necessary to insure adequate wastewater treatment on a continuing basis conforming with federal, state or local requirements and to insure long-term facilities management.
- w) **"OUTLET"** - any outlet, natural or constructed, which is the point of final discharge of sewage or of treatment plant effluent into any watercourse, pond, ditch, lake or other body of surface or ground water.
- x) **"PERSON"** - any individual, owner, discharger, lessee, occupant, firm, partnership, company, municipal or private corporation, commercial establishment, association, society, institution, enterprise, governmental agency or other legal unit or entity.
- y) **"pH"** - the logarithm (to the base 10) of the reciprocal of the hydrogen ion concentration of a solution expressed in gram-atoms per liter of solution.
- z) **"POLLUTANTS"** -
 - 1. **"COMPATIBLE POLLUTANTS"** - waste containing biochemical oxygen demand, chemical oxygen demand, suspended solids, phosphorus, pH and fecal coliform bacteria and ammonia NH_3 .
 - 2. **"INCOMPATIBLE POLLUTANTS"** - wastes with any pollutant that is not a compatible pollutant which is regulated by the NPDES permit or that would cause damage to the sewage system and/or treatment plant.
- aa) **"RECEIVING STREAM"** - the watercourse, stream or body of water receiving the waters finally discharged from the sewage treatment plant.

- 1 bb) **"REPLACEMENT COSTS"** - that cost, stated in current
2 monetary values, as an operating cost which represents
3 and measures the expenditures required to replace
4 equipment, accessories or appurtenances of the property
5 in order to maintain capacity and performance during the
6 useful life of the property of the Water Pollution
7 Control Utility.
- 8 cc) **"REPLACEMENT FUND"** - a fund maintained to provide
9 resources to pay for replacement expenditures annually as
10 required to maintain the capacity and performance of the
11 property of the Sewage Works.
- 12 dd) **"SANITARY SEWAGE"** - sewage discharged from the sanitary
13 conveniences of dwelling, apartment houses, condominiums,
14 motels, hotels, lodging or boarding houses, office
15 buildings, factories or institutions and free from storm
16 water, surface water, groundwater and industrial wastes.
- 17 ee) **"SERVICE CHARGE"** - a charge levied on a user of the
18 treatment works which includes the user charge, a charge
19 for local capital costs and may include other charges for
20 current services.
- 21 ff) **"SEWAGE"** - the water-carried wastes from residences,
22 business buildings, institutions and industrial
23 establishments, singularly or in any combination,
24 together with such ground, surface and storm waters as
25 may be present.
- 26 gg) **"SEWAGE TREATMENT PLANT"** - **"WATER POLLUTION CONTROL
27 PLANT"** - the arrangement of devices, structures and
28 equipment used for treating and disposing of sewage and
29 sludge.
- 30 hh) **"SEWAGE WORKS" OR "WATER POLLUTION CONTROL UTILITY"** - all
31 facilities and systems for collecting, transporting,
32 pumping, treating, disposing of sewage and sludge,
33 including the sewage treatment plant and the sanitary,
34 storm and combination sewer collection systems whether or
35 not in active use.
- 36 ii) **"SEWER"** - a pipe or conduit for carrying sewage and other
37 waste liquids as differentiated below:
- 38 1. **"COMBINED OR COMBINATION SEWER"** - a sewer which
39 carries storm, surface and groundwater runoff as
40 well as sewage.
- 41 2. **"PUBLIC SEWER"** - a sewer to the use of which all
42 owners of abutting property have equal rights and
43 is controlled and maintained by the City or other
44 public authority.
- 45 3. **"SANITARY SEWER"** - a sewer which carries domestic
46 and unpolluted industrial sanitary sewage and to
47 which storm, surface, groundwaters and unpolluted
48 industrial waste waters are not intentionally
49 admitted.
- 50 4. **"STORM SEWER"** - a sewer which carries storm,
51 surface and groundwater drainage but excludes
52 sanitary sewage.
- 53 jj) **"SEWER ENGINEER"** - the Chief Sewer Engineer of the City
54 or his duly authorized representative; the term is
55 synonymous with the term "Water Pollution Control
56 Engineer."

- 1 kk) "SEWERAGE SYSTEM" - the network of sewers and
2 appurtenances used for collecting, transporting and
3 pumping sewage to the Sewage Treatment Plant.
- 4 ll) "SHALL" means mandatory; "may" means permissible.
- 5 mm) "STANDARD METHODS" - the examination and analytical
6 procedures set forth in the most recent edition of
7 "Standard Methods for the Examination of Water and
8 Wastewater," published jointly by the American Water
9 Works Association and the Water Pollution Control
10 Federation, a copy of which is on file in the Office of
11 the Superintendent.
- 12 nn) "STRENGTH-OF-WASTE SURCHARGE" - the additional charges
13 for sewage service collected from users discharging
14 sewage into the system having a strength measurement in
15 excess of the limits imposed by the provisions of this
16 Chapter.
- 17 oo) "SUPERINTENDENT" - the Superintendent of the Sewage
18 Treatment Plant (Water Pollution Control Plant) of the
19 City, or his duly authorized representative.
- 20 pp) "SUSPENDED SOLIDS" - solids which either float on the
21 surface of or are in suspension in water, sewage or other
22 liquid and which are removable by laboratory filtration.
23 Their concentration is expressed in milligrams per liter.
24 Quantitative determinations are made in accordance with
25 procedures set forth in "Standard Methods."
- 26 qq) "USER CHARGE" - a charge imposed on users of a treatment
27 works to defray the cost of operation, maintenance and
28 replacement.
- 29 rr) "WASTE SURVEILLANCE CHARGE" - a monthly charge collected
30 from users, qualifying as industrial or commercial class
31 users, to defray the cost of evaluating that user's waste
32 by metering, sampling, laboratory analysis and/or other
methods deemed necessary. Said charges are set forth in
Article VII and are subject to review annually as
provided in Section 24-41.
- ss) "WATERCOURSE" - a channel in which the flow of water
occurs either continuously or intermittently.

Sec. 24.2. Rules and Regulations-Board of Works Authority.

The Board of Public works of the City shall, in accordance with the Statutes of the State of Indiana, and subject to the provisions and requirements of this Chapter, make and enforce appropriate rules and regulations for the safe, economical and efficient management and operation of the City's Sewage Works, for the construction and use of sewers, building sewers, appurtenances and connections to the sewerage system; for the regulation, collection and refunding of rates and charges for sewerage service; and for the implementation of the provisions of this Chapter.

Sec. 24.3. Requirements for Connection to Public Sewers.

- a) No owners of or persons controlling any real property shall tap or drain either directly or indirectly into any public sewer until a sewer tap permit has been obtained from the City and until owner has satisfied the obligation to pay all assessments, reimbursements and pro rata shares of sewer extension costs laid against that

property for public sewers which serve it. A sewer tap permit given in error shall not operate to nullify and such obligation that has been duly recorded nor estop the City from charging and collecting such costs at any subsequent time.

- b) Notwithstanding the foregoing, the Sewage Works may, in accordance with policies and procedures adopted by the Board of Public Works and from time to time, permit any persons to tap or drain into a public sewer and to deter, in whole or in part, payment of the obligation, upon the execution and delivery to the Sewage Works of a note, mortgage, lien document or other evidence of obligation acceptable to the Sewage Works.
- c) All such deferred obligations shall be considered for the purposes of Indiana Code Section 36-9-23-31 through 36-9-23-34 to be fees assessed against real property.
- d) Installments of deferred obligations, including any finance charges or interest chargeable thereon, shall be deemed to be "charges for sewerage service" for the purposes of Articles VIII and IX of this Ordinance.
- e) Sewer tap permits shall be obtained from the City's New Water and Sewer Permit Office and shall be issued only to licensed sewer tap contractors, who shall pay to the Sewage Works a fee of fifty dollars (\$50.00) for each sewer tap permit for a standard six-inch service, a fee of ninety dollars (\$90.00) for each sewer tap permit for a special six-inch service (such as a sewer tap into a collection system manhole) and a fee of ninety dollars (\$90.00) for each sewer tap permit for a sewer service larger than six-inches. The aforementioned charges will apply to similar types of taps into the City storm sewer system. Not later than 48 hours after making each sewer tap and building of the sewer installation, the tap contractor or property owner shall notify the New Water and Sewer Permit Office of such connections so that an inspection may be made by the Sewage Works prior to backfilling the said sewer installation.
- f) No person shall connect any roof downspout, exterior foundation drain, or other source of surface runoff or groundwater to a building sewer or building or house drain which is connected either directly or indirectly to a sanitary sewer of the City.
- g) The Board of Public Works shall have the authority to require an owner of real property to disconnect any downspouts, yard drains or other drains which carry the runoff of natural precipitation from a building sewer which drains into a sanitary sewer. Property owners shall have thirty (30) days after notice thereof to comply with any such requirement.
- h) A new connection may be made to a City sewer or sewers connected to the City system only after there has been adequate assurance by the City that the downstream facilities of the Sewage Works have adequate capacity to transmit and treat the new waste loadings.
- i) No person shall make use of a sewer tap or back-fill or otherwise conceal a sewer installation unless and until the same has been inspected and approved by the Sewage Works. In addition to all other remedies, the Sewage Works may cause the said installation of sewer tap to be excavated and exposed, may terminate the connection and

may require the owner or occupant to pay or reimburse the Sewage Works for its costs and expenses in such excavation, exposure, termination, reconnection and restoration. Such costs and expenses shall be considered as charges for sewerage treatment services and may be collected in accordance with the provisions of Indiana Code 36-9-23-31 through 36-9-23-34 and Article IX of this Chapter.

- j) No person shall construct any combination sewers without the express written consent and approval of the Board of Public Works.
- k) The Board of Public Works shall have the authority to require that new construction tributary to any combined sewer be designed to minimize or delay inflow contribution to the existing combined sewerage system.
- m) The Board of Public Works shall have the authority to require that for any new building any storm sewer connection to any combined sewer shall be made separate and apart from the sanitary sewer connection in order to facilitate future disconnection from the combined sewer in the event a separate storm sewer subsequently becomes available.

Sec. 24.4. Extensions of Sewers Outside Corporate Limits.

The installation, construction, or extension of sanitary sewers by private developers or by the City outside the corporate limits of the City and the connection of said sanitary sewers into the City's sewage system from, by, to, or for properties located outside such limits is prohibited, except with the approval of the Board of Public Works by duly enacted resolution, provided that a resolution ratifying and agreement and/or contract for such construction and connection shall be deemed to constitute such approval.

Sec. 24-5. Connections to Sewerage System by Certain Out-of-City Properties.

Notwithstanding the provisions of Sec. 24-4, the Board of Public Works shall have the authority to permit a property located outside the corporate limits of the City to connect to an existing sanitary sewer which is part of the City's sewerage system, when the property abuts, adjoins or is immediately contiguous to the street, alley or easement in which such sewer is located and provided the property owner or occupant has complied with the requirements prescribed by Sec. 24-3 of this Chapter.

Sec. 24-6. Enforcement.

Those provisions of this Chapter not specifically dealt with elsewhere shall be enforced by the Superintendent of the Water Pollution Control Plant and such deputies as he, with the approval of the Board of Public Works, may appoint for such purposes. Whenever said Superintendent or any such deputy shall deem it appropriate to charge any person with a violation(s) of this Chapter, he shall issue to such person a Notice of Violation and/or Summons, which shall be processed according to the provisions of Indiana Code (34-4-32-1) and sewer rules and regulations.

Sec. 24-7. Penalty for Violations.

Any person who violates or fails to comply with any provision of this Chapter or of the Rules and Regulations of the Board

of Public Works or Administrative Orders pertaining thereto, shall be deemed to have committed a Class B infraction and upon conviction thereof be subject to a fine of up to \$1,000.00 per infraction as provided by Indiana Code 34-4-32-4. Each day that such violation(s) or noncompliance continues shall constitute a separate offense.

Sec. 24-8. Damage to City Property Prohibited.

It shall be unlawful for any unauthorized person to maliciously, willfully or negligently break, damage, destroy, remove, deface or tamper with any structure, appurtenance or equipment which is part of the City sewage system, the City's Water Pollution Control Plant or property of others assigned to the City for operation and maintenance and shall be liable for damage.

Sec. 24-9. Dilution.

It shall be unlawful for any person to increase the use of potable water or process water in any way, or mix separate waste streams for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with pretreatment standards or requirements. The City may impose discharge limitations on any persons using dilution to meet applicable pretreatment standards or discharge permit requirements. The City may also impose discharge limitations in other circumstances deemed appropriate by the Board of Public Works.

Sec. 24-10. Accidental Discharges.

- a) Each person shall provide protection from accidental discharge of prohibited or regulated materials or substances to sewers of the City of Fort Wayne. Where necessary, procedures and facilities to prevent the accidental discharge of prohibited materials shall be provided and maintained at said discharger's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Superintendent for review, and be approved by the City before construction of the facility. Review and approval of plans and operating procedures by the City shall not relieve the discharger from the responsibility to modify its facility as necessary to meet applicable federal, state and local requirements.
- b) All responsible persons shall notify the Superintendent of the Water Pollution Control Plant, or his representative, immediately when a "slug load" or accidental discharge occurs. A written report shall be submitted within five (5) days of the incident. The notification must include the location of the discharge, date and time of occurrence, type of waste, concentration and volume and corrective actions taken. Any person who discharges a "slug load" of prohibited materials will be liable for any expense, including loss or damage to the City's sewerage system and treatment facilities in addition to the amount of any fines imposed upon the City under state or federal law.
- c) Signs must be permanently posted in conspicuous places on the dischargers' premises, advising employees whom to call in the event of an accidental discharge. Employers shall adequately instruct all employees who may cause or discover such discharges of the emergency notification procedures.

ARTICLE II - PERMITTED COMMERCIAL AND INDUSTRIAL WASTES

Sec. 24-11. Prior Approval for Certain Wasters.

Review and acceptance by the Superintendent shall be obtained prior to the discharge into the sewage works sewers by any persons having sewage wastes which contain:

- a) Either a BOD content greater than 300 milligrams per liter or a COD greater than 600 milligrams per liter.
- b) A suspended solids content greater than 300 milligrams per liter.
- c) A phosphorus content greater than 10 milligrams per liter.
- d) An ammonia content greater than 25 milligrams per liter.
- e) Other contaminants which either from their constituents or quantities will: (a) interfere with the operation of any portion of the Sewage Works; (b) pass through the treatment works or otherwise be incompatible with such works; (c) prevent the reclamation and/or recycling of municipal or industrial wastewaters and sludges.

Sec. 24-12. Pretreatment Facilities - General.

When, after making such a review, the Superintendent concludes that, before the person discharges waste into the public sewers, the person must modify or eliminate those constituents which would be harmful to the structures, processes, or operations of any portion of the Sewage Works or injurious to the health of the general public, then that person shall either modify the wastes at the point of origin or shall provide and operate, at said person's expense, such treatment and processing facilities as may be deemed necessary to render said person's waste acceptable for admission to the public sewers.

Sec. 24-13. Pretreatment Facilities - Prior Approval.

Plans, specifications and any other pertinent information relating to proposed treatment or processing facilities shall be submitted to the Superintendent for examination and approval. No construction of such facilities shall begin until the Superintendent has given written approval. Such approval shall not exempt the person from the obligation to make further reasonable adaptations of such facilities when such adaptations prove necessary to secure the results of acceptable waste concentrations desired. The approval of proposed facilities and/or equipment by the Superintendent does not in any way guarantee that such facilities and/or equipment will function in the manner described by the person's constructor or the manufacturer of said facilities and equipment, nor shall such approval relieve any person of the responsibility of enlarging or otherwise modifying such facilities to accomplish the intended purposes.

Sec. 24-14. Pretreatment Facilities - Operation.

Where pretreatment facilities are provided pursuant to the Superintendent's approval, they shall be maintained continuously in satisfactory and effective operating condition at the person's expense and shall be subject to periodic and random inspection and sampling by the City. The person responsible for such facilities shall maintain suitable operating records which shall be open to inspection by the

City, and shall submit to the Superintendent such monthly summary reports of the character of the influent and effluent of the facilities as the Superintendent may require. All records and reports shall be retained for a minimum of three (3) years. All industry whether defined as Categorical or Non-Categorical Industry by state and federal regulations shall comply with all requirements of 40 CFR 403.12.

Sec. 24-15. Federal Pretreatment Standards.

As part of this Ordinance the City shall enforce all federal pretreatment standards including but not limited to Categorical Pretreatment Standards upon persons within its service area or within the service area of any Contract Customers.

ARTICLE III - Prohibited Commercial, Industrial and Institutional Discharges.

Sec. 24-16. Prohibitions and Limitations.

Except as hereinbefore provided, no person shall discharge or cause or permit to be discharged into the public sewer any of the following described substances, wastes or waters:

- a) Any liquid or vapor having a temperature greater than 140° Fahrenheit.
- b) Any waters or wastes containing more than 100 milligrams per liter of grease, oils, fats or waxes.
- c) Any gasoline, benzene, naphtha, fuel oil, mineral oil or any other flammable or explosive solid, liquid or gas.
- d) Any noxious or malodorous gas or substance which either alone or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into the sewers of their maintenance or repair.
- e) Any garbage that has not been properly pretreated and reduced per Sec. 24-1(p).
- f) Any ashes, cinders, sand, mud, straw, shavings, wood, metal, glass, rags, feathers, tar, plastics, paunch manure, butchers' offal or any other solid or viscous substances capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewerage system or the Sewage Treatment Plant.
- g) Any waters or wastes having a pH less than 6.0 or greater than 10.0 or having any other corrosive property capable of causing damage or posing hazards to the structures, equipment or personnel of the Sewage Works.
- h) Any waters or wastes containing toxic substances, as defined under Section 307 (b) and (c) of the Clean Water Act in sufficient quantity to interfere with the biological process of the Sewage Treatment Plant or that will pass through the Plant into the receiving stream in amounts exceeding the standards set forth by federal, interstate, or other competent authority having jurisdiction, or will prevent the disposal of the sludges by the Plant in accordance with Section 405 of said Act.

- i) Any toxic radioactive isotopes, without a special permit. The radioactive isotopes of I 131 and P 32 used in hospitals are not prohibited, if they are properly diluted before being discharged into the sewerage system, as further defined in the General Rules and Regulations.
- j) Any waters or wastes that for a duration of 15 minutes or more have a concentration more than 5 times the average concentration of BOD or suspended solids of the user's sewage discharged during a 24 hour period of normal operation.
- k) Any waters or wastes containing suspended solids of such character and quantity that unusual provisions, attention and expense would be required to handle such materials at the Sewage Treatment Plant, its pumping stations or other facilities.
- l) Any waters or wastes containing incompatible pollutants as herein described.
- m) Any waters or wastes containing any toxic substances in quantities that are sufficient to interfere with the biochemical processes of the Sewage Treatment Plant, that will pass through the plant into the receiving waters or accumulate in the sludges in an amount exceeding the limitations, set forth by any federal, state, interstate or local limitations whichever is more stringent. Specifically excluded are any waters or wastes containing toxic ions, compounds, or substances in concentrations or amounts exceeding the limitations set forth by the Board of Public Works and published in the General Rules and Regulations.
- n) Any bulk waste, either industrial or domestic, without prior written approval of the Superintendent.
- o) Any substances with objectional color not removed by the treatment process, such as, but not limited to dye waste and vegetable tanning solutions.
- p) The City reserves the right to refuse, deny or revoke the connection of any user in the event the sewerage service requirements of the user, in the judgment of the Superintendent could or would impose an excessive burden on the Sewage Works or in the event the user is or has been repeated violation of this Ordinance. The City further reserves the right in the event of any emergency, to restrict the allowable discharge received from any or all large users of the sewerage system during the time of such emergency.
- q) Pollutants which create a fire or explosion hazard in the City's treatment works or sewage system, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit, or 60 degrees centigrade using test methods specified in 40 CFR 261.21.

Sec. 24-17. Responsibility for Obstructing or Damaging Sewers.

If a public sewer becomes obstructed or damaged because any of the aforementioned substances were improperly discharged, the person or persons responsible for such discharges shall reimburse the City for the expenses incurred by the City for cleaning out, repairing, rebuilding the sewer or for any litigations or damage claims resulting therefrom, including legal fees and court costs. For multiple offenders, each

responsible person shall be assessed a proportionate percentage of the damage.

ARTICLE IV - Control of Admissable Industrial, Commercial and Institutional Wastes.

Sec. 24-18. Submission of Data on Industrial Waste.

- a) Any person who discharges industrial waste into the City's sewerage system either directly or indirectly, shall forthwith fill out and file, with the Superintendent, an Industrial Waste Questionnaire, baseline monitoring report or permit application, the form for which will be furnished by the City, in which shall be set forth the quantity and characteristics of the wastes discharged into the City's sewerage system. Any owner desiring to establish a new connection to the public sewer or to establish a new account with Sewage Works for the purpose of discharging industrial or commercial waste shall ninety (90) days prior to discharge first fill out and file with the Superintendent such a questionnaire, baseline monitoring report or permit application, which shall contain the actual or predicted data relating to the quantity and characteristics of the wastes to be discharged. After review of the submitted documents and permit application, the Superintendent shall issue an industrial wastewater discharge permit which shall contain conditions and requirements with which the person shall comply.
- b) Any person who adds, changes, modifies or proposes to change manufacturing or pretreatment processes shall first notify the Sewage Works, in writing, and submit a new or revised Industrial Waste Questionnaire for review by the Superintendent.
- c) Any person who knowingly makes any false statement, representation or certification in any application, report or other document required by the municipal ordinance or other applicable regulations shall, upon conviction be punished by the imposition of a criminal penalty as required by local and/or State statutes.
- d) When special circumstances render it an unreasonable burden to comply with the time schedule determined by the Sewage Works for the correction of any industrial waste discharge problem, an extension of time, not to exceed 90 days, may be granted by the Superintendent upon presentation in writing of an application for such relief.

Sec. 24-19. Confidential Information.

Information and data furnished to the City by any person shall be made available to the public or other governmental agency without restriction unless the person specifically requests and is able to demonstrate in accordance with 40 CFR 2.203 and 330 IAC 5-1.5-8 that the release of such information would divulge information and/or methods of production entitled to protection as trade secrets or proprietary information of said person. However, under no circumstances may the volume or the components of the discharge be considered confidential. All requests, by the person, for confidentiality of information shall be made in accordance to and governed by the provisions of 330 IAC 5 and 40 CFR 2.

1 **Sec. 24-20. Control Manholes.**

2 Any person who discharges or may discharge industrial wastes
3 into a public sewer via any means such as floor drains, sinks,
4 catch basins, etc., shall be required by the Superintendent to
5 construct and maintain, at his own expense, one or more
6 control manholes, at a specified location or locations, to
7 facilitate the observation, measurement and sampling of
8 owner's waste. Such manholes shall be constructed in
9 accordance with the standards and specifications of the City.
10 The Superintendent may also require the person to install and
11 maintain in any such manhole, at said person's expense, an
12 approved volume-measuring device. Plans and/or shop drawings
13 for the installation of control manholes and related equipment
14 shall be approved by the Superintendent before any
15 construction is begun.

16 **Sec. 24-21. Grease and Sand Traps.**

17 Whenever the Superintendent determines that interceptors or
18 traps are needed to protect the City's sewerage collection
19 system or the City's Treatment Plant from grease, oil, sand or
20 similar substances occurring in any person's sewage and so
21 notifies said person, then such traps shall be promptly
22 installed by said person, at said person's expense and shall
23 be so maintained by that person that none of such substances
24 can be discharged or carried over into the public sewers. All
25 traps or interceptors shall meet the City's standards as to
26 construction, location and installation.

27 **Sec. 24-22. Waste Sampling.**

- 28 a) Any person shall be subject to periodic and random
29 inspections by the City for the purpose of determining
30 compliance with permit limitations, solvent management
31 plans or spill prevention plans, identifying dilution
32 streams or to categorize regulated processes. These
33 inspections may consist of monitoring waste streams,
34 inspection of the premises, inspection and/or copying of
35 production records, pretreatment operating records and
36 other records or data deemed necessary by the inspector
37 for the purposes stated above.
- 38 b) The installation, operation and maintenance of the
39 sampling facilities shall be the responsibility of the
40 person discharging the wastes and shall be subject to the
41 approval of the Superintendent. Access to the sampling
42 facilities shall be granted, at all times, to the
43 Superintendent.
- 44 c) Where any person's operations have security measures in
45 force which require proper identification and clearance
46 before entry onto said person's property is granted, such
47 person shall make the necessary arrangements with their
48 security personnel that upon showing of proper
49 identification personnel from the City shall be permitted
50 to enter, without delay, for the purpose of observing or
51 monitoring of wastes being discharged at a given point or
52 points or that person shall install suitable control
53 manholes outside of the security area or areas, which at
54 all times will be immediately available to City
55 personnel.

56 **Sec. 24-23. Waste Analysis Procedures and Charges.**

57 Laboratory procedures used in the examination of industrial
58 wastes shall be those set forth in "Standard Methods", Code of
59 Federal Regulations 40 CFR 136 or approved EPA methods.

- 1 a) **CHARGES TO USERS** - alternate methods for certain analyses
2 of commercial, industrial or institutional estates may be
3 used subject to mutual agreement between the
4 Superintendent and the user. In the event of a dispute
5 between the Superintendent and the user as to the
6 characteristics, strength, toxic nature or other
7 particulars of the sample taken and analyzed by the City,
8 either party may request that the sample in dispute be
9 analyzed by a mutually acceptable referee whose charges
10 shall be paid by the party requesting the analysis.
11 Analyses made by the City at the request of the user,
12 shall be charged to the user according to the Sewage
13 Works' standard work order billing procedure. All such
14 analyses shall be binding in determining strength-of-
15 waste surcharges and other matters dependent upon the
16 character and concentration of wastes.
- 17 b) **CHARGES TO GOVERNMENTAL AGENCIES** - analyses performed by
18 the Water Pollution Control Plant Laboratory for any
19 governmental agency, or political sub-division of a city,
20 county or state shall be billed to such agency or sub-
21 division for direct labor and expenses according to the
22 Sewage Works' standard work order billing procedure.
23 Analyses performed for other agencies shall not have
24 priority over the regular Water Pollution Control Plant
25 analyses unless in the judgment of the Superintendent the
26 urgency of the analyses warrants such priority.
- 27 c) **CHARGES OF OUTSIDE SERVICES** - Analyses performed by the
28 Water Pollution Control Plan Laboratory for any person
29 shall be billed at the rate established by the Water
30 Pollution Control Plan Laboratory for such analyses.
- 31 d) **CHARGES COLLECTED** - All waste analysis charges collected
32 under Section 24-23-a) and b) above shall be recorded as
credits to the operating costs of the Water Pollution
Control Plant and a quarterly accounting thereof shall be
forwarded to the Superintendent. All such charges are to
be used to defray the operation and maintenance expenses
incurred by the Water Pollution Control Plant in
performing said analyses.

22 **Sec. 24-24. Use of Representative Analysis.**

23 Until an adequate analysis of a representative sample of
24 user's wastes has been obtained, the City may, for the purpose
25 of this Chapter, make a determination of the character and
26 concentration of the wastes by using data based on analysis of
27 similar processes or data for this type of business that are
28 available from the United States Environmental Protection
29 Agency or from industry-recognized authoritative sources.
30 This method, if selected by the City, shall continue at the
31 City's pleasure or until an adequate analysis has been made.

28 **ARTICLE V. SERVICE CHARGE BASED ON WATER USAGE**

29 **Sec. 24-25. Water Obtained from the City's Water Utility.**

30 The charges made for sewerage service rendered to each lot,
31 parcel of real estate or building having any connection with
32 the City's sewerage system or otherwise discharging sewage
into the system, either directly or indirectly, shall be
based upon the quantity of water presumed to enter the public
sewers after being used in or on the property, as the quantity
is measured by the water meter or meters there in use by the
City's Water Utility, except as herein otherwise provided.

Sec. 24-26. Water Obtained from Other Sources.

Where the property obtains any part or all of the water used from sources other than the City's Water Utility, the owner or the tenant may be required by the City to install and maintain at the user's own expense a meter or meters acceptable to the City for the quantity of water obtained from these other sources.

Sec. 24-27. Exempt Water - General.

Where a significant portion of the metered water does not and cannot enter the sewerage system, either directly or indirectly, the person having charge of the property may request permission from the City to install at the user's expense either an approved meter or meters to determine the quantity of water that cannot enter the sewerage system or an approved sewage-measuring device or devices to determine the volume of sewage that actually enters the sewerage system. In any case the service charge shall be based on the quantity of water that can or actually does enter the public sewers but in no case shall it be less than the minimum charge for the class of user served.

Sec. 24-28. Metering of Sewage.

The City may require a person to install and maintain at the user's expense an approved device to measure directly the volumes of wastes discharged to the sewerage system if those volumes cannot otherwise be determined from the metered-water consumption records. The City shall inspect and approve such installation and no such services, once installed, shall be removed without the City's approval.

Sec. 24-29. Reserved.

ARTICLE VI. USER CHARGES

Sec. 24-30. Residential User Charges.

Charges for services rendered shall be based on metered water consumption unless otherwise measured in accordance with the following charges for this classification of service:

Service Charge (Cents per 100 cu. ft.)

Treatment	41.01
Conveyance, Collection, Billing	22.19
Capital	<u>11.98</u>
Total User Charge	<u>75.18</u>

User Minimum Charges and Other Fixed Payments

In the event the monthly sewage Service Charge calculated in accordance with the schedule above does not exceed the minimum monthly charge for each class of user as set forth hereafter, user shall pay said minimum monthly charge, in lieu of the charge calculated based on water usage, as follows:

<u>Water Meter Size</u>	<u>Minimum Monthly Charge</u>
5/8 - 3/4"	\$ 3.63
1 - 1 1/2"	12.82
2"	26.50
3"	53.30
4"	88.60
6" or larger	246.00

User Flat Charges

In the event that any user in this classification is not a metered water customer, there shall be imposed flat charge rates as follows:

<u>Classification of Customer</u>	<u>Monthly Flat Charge (1)</u>	
	<u>In City</u>	<u>Out-City</u>
Residential User-Single Family Dwelling	\$7.52	\$9.00
Residential User-Multi Family Dwelling	To be estimated by City	

- a) Monthly flat charges for multi-family dwellings shall be based on the number of family units accommodated by the system multiplied by the single family dwelling monthly charges.

The Utility shall retain documentation supporting its estimates and the billings based thereon. Such determination of billings may be reviewed and adjusted by the Utility at any time. However, no adjustment, additional charge or refund may be made more than six (6) years after the due date of the billing sought to be adjusted.

<u>Inbalco Capital Surcharge - per month</u>	\$4.65
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Sec. 24-31. Industrial User Charges.

Charges for services rendered shall be based on metered water consumption unless otherwise measured in accordance with the following charges for this classification of service:

<u>Service Charge (Cents per 100 cu. ft.)</u>	
Treatment	41.01
Conveyance, Collection, Billing	22.19
Capital	<u>11.98</u>
Total User Charge	<u>75.18</u>

User Minimum Charges and Other Fixed Payments

In the event the monthly sewage Service Charge calculated in accordance with the schedule above does not exceed the minimum monthly charge for each class of user set forth hereafter, user shall pay said minimum monthly charge, in lieu of the charge calculated based on water usage, as follows:

<u>Water Meter Size</u>	<u>Minimum Monthly Charge</u>
5/8 - 3/4"	\$ 3.63
1 - 1 1/2"	12.82
2"	26.50
3"	53.30
4"	88.60
6" or larger	246.00

Other Industrial User Charges

- 1) Monthly billing charge - per bill \$3.15

- 2) Excess Strength of Wastes Surcharge - in the event an industrial user contributes waste having strength of sewage in excess of domestic waste characteristics, as hereinbefore defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:

	<u>Cents Per Pound</u>
Suspended Solids - (SS)	\$ 6.12
Biochemical Oxygen Demand - (BOD)	6.79
Phosphorus - (P)	55.14
Ammonia - (NH-3)	16.73

User Flat Charges

In the even any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City.

Sec. 24-32. Commercial User Charges

Charges for services rendered shall be based on metered water consumption unless otherwise measured in accordance with the following charges for this classification of service:

<u>Service Charge (Cents per 100 cu. ft.)</u>	
Treatment	41.01
Conveyance, Collection, Billing	22.19
Capital	<u>11.98</u>
Total User Charge	<u>75.18</u>

User Minimum Charges and Other Fixes Payments

In the event the monthly sewage Service Charge calculated in accordance with the schedule above does not exceed the minimum monthly charge for each class of user as set forth hereafter, user shall pay said minimum monthly charge, in lieu of the charge calculated based on water usage, as follows:

<u>Water Meter Size</u>	<u>Minimum Monthly Charge</u>
5/8 - 3/4"	\$ 3.63
1 - 1 1/2"	12.82
2"	26.50
3"	53.30
4"	88.60
6" or larger	246.00

User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge rate estimated by the City.

Inbalco Capital Surcharge - per month \$4.65

Other commercial User Charges

In the even any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as hereinbefore defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

Sec. 24-33. Institutional User Charges.

Charges for services rendered shall be based on metered water consumption unless otherwise measured in accordance with the following charges for this classification of service:

<u>Service Charge (Cents per 100 cu. ft.)</u>	
Treatment	41.01
Conveyance, Collection, Billing	22.19
Capital	<u>11.98</u>
Total User Charge	<u>75.18</u>

User Minimum Charges and Other Fixed Payments

In the event the monthly sewage Service Charge calculated in accordance with the schedule above does not exceed the minimum monthly charge for each class of user set forth hereafter, user shall pay said minimum monthly charge, in lieu of the charge calculated based on water usage, as follows:

<u>Water Meter Size</u>	<u>Minimum Monthly Charge</u>
5/8 - 3/4"	\$ 3.63
1 - 1 1/2"	12.82
2"	26.50
3"	53.30
4"	88.60
6" or larger	246.00

Other Institutional User Charges

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as hereinbefore defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City.

Inbalco Capital Surcharge - per month \$4.65

Sec. 24-34. Governmental User Charges.

Charges for serviced rendered shall be based on metered water consumption unless otherwise measured in accordance with the following charges for this classification of service:

<u>Service Charge (Cents per 100 cu. ft.)</u>	
Treatment	41.01
Conveyance, Collection, Billing	22.19
Capital	<u>11.98</u>
Total User Charge	<u>75.18</u>

User Minimum Charges and Other Fixed Payments

In the event the monthly sewage Service Charge calculated in accordance with the schedule above does not exceed the minimum monthly charge for each class of user set forth hereafter, user shall pay said minimum monthly charge, in lieu of the charge calculated based on water usage, as follows:

<u>Water Meter Size</u>	<u>Minimum Monthly Charge</u>
5/8 - 3/4"	\$ 3.63
1 - 1 1/2"	12.82
2"	26.50
3"	53.30
4"	88.60
6" or larger	246.00

Other Governmental User Charges

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as hereinbefore defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City.

Inbalco Capital Surcharge - per month \$4.65

Sec. 24-35. Contract Customers - Unit and Other Charges.

In the event the City consummates a contract to serve as a regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for the following unit charges:

a) Volume Charge (cents per 100 cu. ft.).

Treatment	41.01
Capital Charge	<u>.25</u>
	41.26

b) Variable Charge (cents per 100 cu. ft.).

A variable charge for conveyance and collection costs attributable to the portion of the conveyance system and operating costs associated therewith used by the contract customer shall be computed by the City and added to the volume surcharge.

c) Flat Charge.

In addition to the foregoing charge based on volume of sewage treated and conveyed each contract customer will pay a monthly billing charge of \$3.15 and a monthly surveillance charge of \$146.65.

d) Excess Strength of Waste Surcharge.

In the event an institutional user contributes waste having a toxic strength in excess of domestic waste characteristics, as hereinbefore defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:

	<u>Cents Per Pound</u>
Suspended Solids - (SS)	\$ 6.12
Biochemical Oxygen Demand - (BOD)	6.79

Phosphorus - (P)	55.14
Ammonia - (NH-3)	16.73

e) Capital Surcharge.

In the event a contract customer delivers sewage for treatment to City for a period of 90 consecutive days which is in excess of base MGD contracted for, then customer will be subject to an additional capital charge computed at the capital charge (per 100 cu. ft.) then in effect times the excess percentage of MGD represented by dividing actual MGD by contracted MGD.

f) Other Provisions.

In the event sewage received pursuant to any contract entered into under this section exceeds any of the limitations imposed by this Chapter, the City shall have the right to impose all charges, limitations and penalties applicable to any non-contract user by the City. Each contract entered into by the City pursuant to the foregoing rate classification shall provide that the contract customer shall agree to enact and maintain a Sewer Use Ordinances and User Charge System acceptable to the City and in conformance with the City's obligations under Sec. 204 (b) (1). Public Law 92-500 as amended and supplemented and guidelines and regulations promulgated thereunder by the U.S. Environmental Protection Agency and 40 CFR 35-905-8, 35-928-1 and 35-928-2 and 35-935-13.

Sec. 24-36. Bulk Waste Charges.

Industrial - for all industrial waste suitable for disposal directly through the plant digestors which as been delivered by the Customer to City's plant - \$287.50 per load. For purposes of computing charges hereunder, a load is defined as 5,000 gallons of tank capacity or fraction thereof.

Domestic - for all domestic waste delivered to plant by customer's truck or tank - \$37.25 per load. For purposes of computing charges hereunder, a load is defined as 1,000 gallons of tank capacity or fraction thereof.

Sec. 24-37. Annual Review of Service Charges.

Prior to May 1 of each year, the Chief Financial Officer of the City and an independent certified public accountant employed for that purpose shall submit to the Board of Public Works a comparison of the calculated unit cost for flow, removal of BOD, suspended solids and phosphorus per year, with the unit charges currently in effect from which the Board shall determine whether the current service charges and surcharges are adequate or should be changed. The methodology utilized in developing this cost comparison shall include:

a) A system including the distribution of the cost of operation and maintenance of the treatment works of the WPC Utility to each user class in proportion to such user's contribution to the total waste loading of the treatment works. Factors such as strength, volume and delivery flow characteristics shall be considered and included as the basis for the user's contribution to insure a proportional distribution of operation and maintenance and replacement costs to each user class.

b) Total annual service charges and surcharges collected from each individual user class shall be deemed sufficient if said charges have generated during the

prior operation period sufficient revenue to offset the cost of all treatment works operation and maintenance provided by the Utility, including cost of management, system repair and replacement, debt retirement and other costs incidental to the Utility Operation attributable to such class.

ARTICLE VII. - STRENGTH-OF-WASTES SURCHARGE.

Sec. 24-38. Liability for Surcharge.

Each user discharging wastes into the sewerage system shall be subject to a strength-of-wastes surcharge, in addition to other sewage service charges imposed by this ordinance, based on the following minimum strength characteristics to the extent that such wastes are in concentrations greater than:

- a) Biochemical oxygen demand of 300 milligrams per liter.
- b) Chemical oxygen demand of 600 milligrams per liter.
- c) Suspended solids content of 300 milligrams per liter.
- d) Phosphorus content of 10 milligrams per liter.
- e) Ammonia content of 25 milligrams per liter.

Sec. 24-39. Computation of Surcharge.

The surcharge shall be determined as follows:

The excess pounds of BOD or COD (whichever results in the higher charge) suspended solids, phosphorus and ammonia will each be computed by first multiplying the user's billing sewage volume measured in units of 100 cubic feet for the current billing period by the factor 0.0062321 and then multiplying this product by the difference between (a) the concentrations measured in milligrams per liter, of the BOD (or COD), suspended solids, phosphorus and ammonia respectively in the user's sewage and (b) the allowed concentrations set out in Section 24-38. The surcharge for each constituent will then be determined by multiplying the excess pounds of each constituent by the appropriate rate of surcharge set out in Section 24-31. In the event COD measurement is used, as hereinbefore provided, 50% of the excess pounds measured will be used to compute the equivalent BOD charge.

Sec. 24-40. Waste Evaluation Charges.

All users discharging wastes into the system requiring continuing surveillance sampling and waste evaluation shall be subject to a monthly fixed charge to cover the costs of such services in the amount of \$146.65 per discharge point. In the event any user is not in compliance with effluent discharge limitations, as set forth elsewhere herein, and such non-compliance requires additional surveillance, sampling and waste evaluation, the user will be charged \$146.65 per occurrence.

Sec. 24-41. Revision of Rates Surcharge.

Prior to May 1 of each year, the Chief Financial Officer of the City and an independent certified public accountant employed for that purpose shall submit to the Board of Public Works a comparison of the calculated unit costs for removing BOD, suspended solids, phosphorus and ammonia from the Sewage Treatment Plant influent during the previous calendar year

with the unit charge currently in effect in order that the Board may determine whether the current rates of surcharges are adequate or should be changed and request legislative enactment of said changes by the Common Council.

ARTICLE VIII. - BILLING OF SERVICE CHARGES

Sec. 24-42. Billing Period.

- a) Charges for sewerage services shall be computed and billed by the General Office of the City Utilities. Bills shall be rendered approximately monthly, unless additional billing is required to reflect customer changes, meter changes, service terminations, initial billings or is otherwise required to adjust billing cycles.
- b) Billings for sewerage service shall be rendered with and shall be due and payable on the same due date as billings for water service to the same premises, if any, and if none, then within such billing cycle as the Utility may determine.

Sec. 24-43. Liability for Payment.

- a) Charges for sewerage service shall be billed to the person being billed for water service, if any, unless by contract with the Utility, another person assumes responsibility for payment. Notwithstanding billing to, and assumption of responsibility by any person, charges for sewerage service shall remain the responsibility of the owner of the real estate, who shall hold the Utility harmless from any loss occasioned by the delinquency of the person billed, including all penalties, recording fees, attorney's fees, interest, and court costs, if any.
- b) The owner of the real estate shall have the right to examine the Utility's records of billing and collection to ascertain whether such charges have been paid, and the amount thereof.
- c) Nothing herein contained shall permit the owner, or any person other than the person being billed, to inspect, examine or otherwise obtain confidential information including the income, employment, finances or social security number of the person being billed.

Sec. 24-44. First Billings.

The rates, charges and surcharges fixed in this Chapter shall extend to and cover any additional premises hereafter served, without hearing or notice. If the first billing to a new user covers a period other than a full billing month, then the charges for sewerage service for such billing shall be made in accordance with standard practice employed by the City's Water Utility.

Sec. 24-45. City Subject to Charges.

For sewerage services rendered to the City, or any department, structure, or property, thereof, the City shall be subject to the same rates and charges herein established for other persons, or to rates and charges established in harmony herewith.

1 **Sec. 24-46. Consolidation of Accounts.**

2 Where an industrial, commercial or other non-residential
3 enterprise is operating in a unified manufacturing or service
4 arena composed of two or more contiguous parcels of real
5 estate and is supplied with water through two or more meters,
6 upon application by the owner or his authorized agent, a
7 consolidation of the water meter readings may be made for the
8 purpose of calculating the sewerage service charge.

9 **Sec. 24-47. Notice of Capital Surcharge.**

10 The City Clerk shall certify a copy of Special Ordinance No.
11 2-233-81, enacted October 28, 1981, and all amendments
12 thereto, heretofore or hereafter adopted, and shall record
13 such certified copy in the Office of the Recorder of Allen
14 County, Indiana to provide constructive notice to the owners
15 and purchasers of real property in Adams Township and St.
16 Joseph Township that a capital surcharge may be imposed upon
17 properties connected to, or to be connected to, the City
18 Utility Sewerage System, in those areas of said townships
19 formerly served by sewerage system purchased or otherwise
20 acquired by the City Utility.

21 **ARTICLE IX. - DELINQUENT ACCOUNTS**

22 **Sec. 24-48. Delinquencies.**

23 Charges for sewerage service levied pursuant to this Chapter
24 shall be due and payable on or before the due date stated on
25 the bill. Any charge for sewerage and/or stormwater service
26 not paid by the due date shall be delinquent, and may be
27 collected, with any applied penalty, recording fees, service
28 charges, attorney's fees, interest and court costs, if any, in
29 accordance with this Chapter and with Indiana Code Sections
30 36-9-23-31 through 36-9-23-34. A penalty of ten percent (10%)
31 of the amount of the charges for sewerage service and/or
32 stormwater service shall be attached to the delinquent
33 charges.

34 **Sec. 24-49. Collection Through Shutting Off Water Service.**

35 Where the property having a delinquent account for charges for
36 sewerage service is served by the City's Water Utility, the
37 Utility may, after reasonable notice to the person being
38 billed, as provided by the Rules and Regulations of the
39 Utility adopted by the Board of Public Works, shut off water
40 service to the property. Water service shall not be restored
41 until the delinquent account, together with the costs of
42 turning off and turning on the water, shall have been paid.

43 **Sec. 24-50. Collection Through Terminating Sewer Service.**

44 In addition to all other remedies provided, the Utility may,
45 after reasonable notice to the person being billed, as
46 provided by the Rules and Regulations of the Utility adopted
47 by the Board of Works, terminate sewerage service to the
48 property. Sewerage service shall not be restored until the
49 delinquent account, together with the costs of terminating an
50 reconnecting service, shall have been paid.

51 **Sec. 24-51. List of Delinquent Fees and Penalties - Tax**
52 **Duplicates - Collection.**

53 Delinquent charges for sewerage services and/or stormwater
54 services, and applied penalties, recording fees and service
55 charges may be made a lien upon the property and may be

collected in accordance with the provisions of Indiana Code 36-9-23-32 and 36-9-23-33.

Sec. 24-52. Collection Through Court Actions.

In addition to the foregoing remedies, the City may recover the amount of the charges for sewerage services, penalties and reasonable attorney's fees in a civil action, and may foreclose liens established by this Chapter in accordance with Indiana Code 36-9-23-34.

Sec. 24-53. Reserved.

ARTICLE X. - ACCOUNTING FOR SEWERAGE SERVICE CHARGES

Sec. 24-54. The City Controller shall establish and maintain, for as long as user charges and surcharges are collected under the rate schedule instituted herein, accounts for the Sewage Works Improvement Fund as required by prior ordinances relating to the issuance of sewage works revenue bonds now outstanding and further in accordance with the laws of the State of Indiana relative to the deposit and disbursement of public funds.

ARTICLE XI. - STORMWATER SERVICE

Sec. 24-55. General.

The Board of Public Works shall have the authority and responsibility to operate and maintain the City's stormwater system. Such authority shall include, but not be limited to, planning, designing, financing, constructing, maintaining, repairing, inspecting and managing now existing and hereafter constructed stormwater facilities. In addition, the Board of Public Works shall cause the fees and charges for stormwater service promulgated elsewhere herein to be collected and shall enforce the provisions of Article XI of this Chapter.

The Board of Public Works shall, wherever possible and most efficiently, use the joint facilities of the Fort Wayne City Utilities to manage, maintain, and construct the stormwater facilities of the City.

Sec. 24-56. Definitions.

Unless the context specifically indicates otherwise the meanings of the terms as used in this Article and as used in the Rules and Regulations adopted by the Board of Public Works for stormwater service are as set forth in Section 24-1-a, b, d, e, f, g, j, l, m, n, r, t, u, w, x, aa, ee, gg, hh, ii, jj, ll, mm, pp, ss as set forth hereafter respectively:

a) Classification of Users

- 1) "Residential User" shall include any user of the City's sewer system whose lot, parcel of real estate or building is used for domestic dwelling purposes only.
- 2) "Commercial User" shall include any user of the City's sewer system which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under Divisions G and H, and I.

- 1 3) "Home Occupational User" shall include any user of
2 the City's sewer system whose lot, parcel of real
3 estate or building is used primarily for domestic
4 dwelling purposes and only secondarily for the
5 operation of a business participated in solely by
6 members of the family residing there.
- 7 4) "Industrial User" shall include any user of the
8 City's sewer system which is identified in Division
9 A. B. D. or E. of the Standard Industrial
10 Classification Manual, 1982, Office of Management
11 and Budget, as amended and supplemented.
- 12 5) "Institutional User" shall include social,
13 charitable, religious, and educational activities
14 such as schools, churches, hospitals, nursing
15 homes, penal institutions, and similar
16 institutional users.
- 17 6) "Miscellaneous User" shall include legislative,
18 judicial, administrative and regulatory activities
19 of the federal, state, and local governments, as
20 well as any users not assignable to other user
21 classifications herein.
- 22 7) "Small Facility" shall include any commercial,
23 industrial, institutional or miscellaneous user
24 whose service address consists of a facility on
25 real estate of 1/3 acre or less, or, which
26 possesses run-off characteristics significantly
27 similar to a single family residential property.
28 Also, in the case of a user facility physically
29 connected to other such establishments; either in
30 a single high rise, strip or building complex
31 structure, such that acreage cannot readily be
32 ascertained, any facility occupying ground floor
 square feet of 14,520 or less shall be considered a
 small business.
- b) "Public Stormwater Facilities" shall mean those drainage
 works which are located within public rights-of-way or in
 dedicated easements which have been accepted for
 maintenance by the City.
- c) "Storm Sewers", in addition to definitions elsewhere
 herein, shall mean the portion of a sewer intended to
 carry stormwater only which begins at the grating or
 opening where water enters said sewer, through the sewer
 and any other conduits to the outlet structure where
 water enters a channel, natural watercourse or combined
 sewer.
- d) "Stormwater Facilities" shall mean various drainage works
 under the control of the City which may include inlets,
 conduits, manholes, structures, channels, outlets,
 retention or detention basins, other structural
 components and equipment designed to transport, move, or
 regulate stormwater.
- e) "Stormwater Service Charge" shall mean a charge imposed
 on users of the City's stormwater collection, impounding
 and transportation system.
- f) "Stormwater System" shall mean all constructed
 facilities, structures and natural watercourses under the
 control of the city used for collecting and conducting
 stormwater to, through and from drainage areas to the
 point of final outlet, including, but not limited to, any

and all of the following: inlets, conduits and appurtenant features, creeks, channels, catch basins, ditches, streams, culverts, retention or detention basins and pumping stations; and excluding therefrom, any part of the system of drains and watercourses under the jurisdiction of the Allen County Drainage Board of the State of Indiana.

Sec. 24-57. Stormwater Service Charges.

A monthly flat-rate charge for stormwater service rendered shall be charged to each sanitary sewer account within the City limits according to service address. The stormwater service charge shall be billed and collected in conjunction with the City's billing system utilized for water and sanitary sewer users.

Stormwater service charges are imposed hereunder to pay for the operation, maintenance, administration and improvement of the City's existing stormwater facilities. Factors utilized by the City to determine just and equitable fees for stormwater service are the same factors set forth in IC 36-9-23-25 for the determination of such fees for users of the City's sanitary sewerage system and treatment plant. In order to properly match the costs of providing stormwater service and charges imposed for that service, a flat charge has been established which takes more accurately into account the impervious stormwater runoff contributed by various general classes of users than does a fee based on water consumption or measurement of discharges to sanitary sewers.

The following charges for stormwater service shall apply to each of the classifications hereafter listed:

<u>Class</u>	<u>Description of User</u>	<u>Monthly Flat Charge</u>
50	<u>Residential</u> - General, Single Family	\$ 1.94
51	Multi-Unit Residential (0-8 Per Service Address)	1.94
52	Multi-Unit Residential 9-18 Per Service Address	5.49
53	Home Occupational	1.94
60	<u>Commercial</u> - General	36.93
61	Restaurants	36.93
62	Retail Stores	36.93
63	Laundries/Dry Cleaners	36.93
64	Offices	36.93
65	Car Washes	36.93
66	Gas Stations	36.93
67	Hotels/Motels/Exhibits,	36.93
68	Multi-Unit Residential >18	36.93
69	Commercial-Small Facility	5.49
70	<u>Industrial</u> - General	52.47
71	Manufacturing	52.47
72	Transportation	52.47
73	Utilities	52.47
74	Industrial Services	52.47
75	Industrial-Small Facility	5.49
80	<u>Institutional</u> - General	36.93
81	Hospitals/Nursing Home	36.93
82	Churches	36.93
83	Schools	36.93

84	Institutional-Small Facility	5.49
90	<u>Miscellaneous</u>	36.93
91	Inter-Departmental City	36.93
92	Miscellaneous-Small Facility	5.49

Sec. 24-58. Customer Appeals of Rate Classification.

If, in the opinion of any user, the classification into which said user was originally placed is inaccurate in light of the revised classifications by size, usage or amount of impervious surface maintained by said user, the user shall have the right to contest said classification in the following manner.

1. User shall obtain and complete a Petition to Appeal Stormwater Classification form, which shall be returned to the Customer Relations Supervisor with [a copy of a survey, lease or other] verifiable documentation supporting user's claim.
2. Upon review of user's claim, the Customer Relations Supervisor shall render a written determination that either the original classification should be affirmed or the user should be reclassified according to the Petition. The Customer Relations Supervisor's determination is subject to review by the Director of Operations for City Utilities.
3. If the user is placed in a new classification carrying a lesser rate, user shall be credited accordingly for any overpayment made from the date the original stormwater service charge was implemented. Said credit shall apply both to metered usage and the stormwater service charge, until any overpayment has been fully adjusted. If user's Petition is denied, said opinion shall be forwarded to user by certified mail, return receipt requested. User shall then have 7 days from date of receipt to request a reconsideration by the Director of Operations for City Utilities.
4. If the dispute is not resolved to the user's satisfaction through the above administrative review, any additional facts concerning the dispute shall be reduced to writing and submitted, along with a copy of the original Petition and supporting documents, to the Director of Operations. The Customer Relations Supervisor shall submit a written report of the determination in the case, along with any documents used in denying the user's claim. Thereafter, the Director of Operations shall designate a hearing officer who shall conduct, as soon as practicable, an informal hearing to determine and resolve the dispute based on the documentation submitted and any oral testimony of the user. The hearing officer shall render a written decision at the close of the hearing or within 30 days thereafter. The determination by such hearing officer shall constitute the final administrative determination, and shall be binding on both parties. The hearing shall be electronically recorded. A transcript of the hearing shall be provided at a cost of \$1.00 per page.
5. A party or person aggrieved by the final administrative determination shall have the right to judicial review of such determination in accord with and pursuant to the provisions of the Indiana Administrative Adjudication Act (I.C. 4-21.5-3 et seq.)

6. Dispute or appeal of a rate classification shall not be a valid reason for non-payment of the stormwater user fee by the user.

Sec. 24-59. Enforcement/Penalty for Non-Payment.

Failure to pay a stormwater user fee when due shall constitute a violation of this Chapter, which shall be enforced by the Director of Operations for the City Utilities and such deputies as the Director, with the approval of the Board of Public Works, may appoint for such purposes. Whenever said Director or any such deputy shall deem it appropriate to charge any person with violation(s) of this Chapter, he shall issue to such person a Notice of Violation and/or Summons, which shall be processed according to the provisions of Indiana Code Sec. 34-4-32-1.

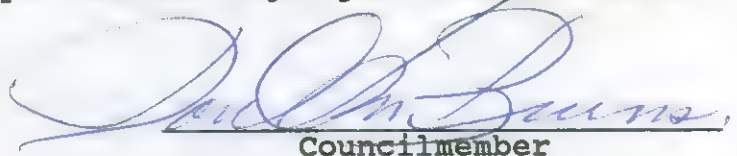
Any user found guilty of a violation of this Section shall be subject to a fine of up to \$1 per day, in addition to the amount of the outstanding bill. Each day that such violation(s) or noncompliance continue shall constitute a separate offense. Any fine assessed by the Court shall be deemed a civil judgment.

Sec. 24-60. Stormwater Fund.

All revenues earned and fees collected for stormwater service, including but not limited to, drainage service charges, permit and inspection fees, direct charges and interest earnings on any unused funds shall be deposited in an Account entitled "City of Fort Wayne Stormwater Account". Disbursements from this account will be authorized by the Board of Public Works and, as required by law, the Common Council. Such disbursements will be used exclusively for the operation, maintenance and improvement of the City's stormwater system. Funds from this Account shall not revert to any City Utilities or Civil City fund and may not be transferred for any other purpose, including to avoid a default on bonds of any City Utilities fund or the City except by action of the Board of Public Works and the Common Council.

Sec. 24-61. Severability.

- a) The invalidity of any section, sentence, clause, paragraph, part or provision of this Ordinance shall not affect the validity of any other section, sentence, clause, paragraph, part or provision of this Ordinance which can be given meaning without such invalid part or parts.
- b) All Ordinances or parts of Ordinances and sections of the Municipal Code of the City of Fort Wayne in conflict herewith are hereby repealed.
- c) That this Ordinance shall be in full force and effect from and after its passage, and any and all necessary approval by the Mayor and due legal publication thereof.


Councilmember

APPROVED AS TO FORM AND LEGALITY


J. Timothy McCaulay, City Attorney

BILL NO. G-91-08-38

(G.S. amended)

REPORT OF THE COMMITTEE ON CITY UTILITIES

PAUL M. BURNS, CHAIRMAN
CHARLES B. REDD, VICE CHAIRMAN
EDMONDS, LONG, SCHMIDT

WE, YOUR COMMITTEE ON CITY UTILITIES TO WHOM WAS
REFERRED AN (ORDINANCE) (~~RESOLUTION~~) AMENDING CHAPTER 24
OF THE CITY OF FORT WAYNE CODE OF LAWS

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

<u>Paul M. Burns</u>			
<u>Charles B. Redd</u>			
<u>Edmonds</u>			
<u>Long</u>			
<u>Schmidt</u>			
<u>C.R. Edmonds</u>			
<u>John C. Henry</u>			
<u>J. Bradbury</u>			

DATED: 9-10-91

Sandra E. Kennedy
City Clerk

DIGEST SHEET

TITLE OF ORDINANCE ORDINANCE

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS

SYNOPSIS OF ORDINANCE AMENDS CHAPTER 24 OF THE CITY CODE AS IT
RELATES TO THE INTERIM STORMWATER USER FEE RATE STRUCTURE AND
COLLECTION OF THE FEE.

D-27-08-38
(as amended)

EFFECT OF PASSAGE CREATES "SMALL FACILITY" AND HOME OCCUPATION
CATEGORIES WITH LESSER FEES, CHANGES ENFORCEMENT MECHANISM TO A
LEGAL ONE

EFFECT OF NON-PASSAGE ALL COMMERCIAL USERS WOULD BE CHARGED
\$36.93, ALL INDUSTRIAL \$52.47, NO MATTER WHAT SIZE FACILITY EACH
MAINTAINS.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) _____

ASSIGNED TO COMMITTEE (PRESIDENT) PAUL MIKE BURNS

Amendments - (Paul 2nd David)

① OK p. 26 (7) change $\frac{1}{3}$ down to make 1 down
passed

② p. 29 -(24-60) last sentence - (period after City, 2nd David)
delete rest of sentence.
passed OK delete (except by action of the Bd of Works and the C.C.)

③ OK p. 25 (2452) 2nd Tom
line 5 - add after 34 -
passed (when the delinquent party, in the property, owned)

Amendment by David

① Exempting all churches

Motion by:
Clarus -
all churches pay 5.49

Amendment by David
~~Amendment by David~~

④ OK June 80
passed 81-82 483
~~Rate greater than $\frac{1}{2}$ of a...~~
Rate be 13.18
p. 27 all the millage be
at the rate of 36.93 be
the to the rate of 13.18 -



THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ROOM 122 • FORT WAYNE, INDIANA 46802 • 219-427-1208

SANDRA E. KENNEDY, CITY CLERK

August 28, 1991

Ms. Connie Lambert
Fort Wayne Newspapers, Inc.
600 West Main Street
Fort Wayne, IN 46802

Dear Ms. Lambert:

Please give the attached full coverage on the date of August 31, 1991, in both the News Sentinel and Journal Gazette.

RE: Legal Notice for Common Council
of Fort Wayne

Bill No. G-91-08-38
Sewer Rates ~ Stormwater

Please send us 3 copies of the Publisher's Affidavit from both newspapers.

Thank you.

Sincerely yours,

Sandra E. Kennedy
City Clerk

SEK/ne
ENCL:1

NOTICE OF HEARING

ON PROPOSED MODIFICATION OF RATES AND CHARGES OF FORT WAYNE SEWAGE WORKS AS THEY PERTAIN TO STORMWATER FEES.

Property owners and other interested parties in the City of Fort Wayne are hereby notified that on August 27, 1991, the Common Council introduced Bill No. G-91-08-38 proposing to amend Chapter 24 of the Municipal code as it relates to the stormwater service fee rate structure and collection of the fee. The introduced ordinance proposes to amend the Stormwater Service Fee Schedule as follows:

The following charges for stormwater service shall apply to each of the classifications hereafter listed:

<u>SIC Class</u>	<u>Description of User</u>	<u>Monthly Flat Charge</u>
50	<u>Residential</u> - General, Single Family	\$ 1.94
51	Multi-Unit Residential (0-8 Per Service Address)	1.94
52	Multi-Unit Residential 9-18 Per Service Address	5.49
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84	Institutional-Small Facility	5.49
90	<u>Miscellaneous</u>	36.93
91	Inter-Departmental City	36.93
92	Miscellaneous-Small Facility	5.49

At a meeting of the Common Council to be held at 7:00 P.M. (Fort Wayne time) on September 10, 1991, in Room 126 of the City-County Building, there will be a public hearing on the above described amendments. The Council, after consideration of information presented at said hearing and deliberation on the issue may adopt or modify and adopt, the proposed rate structure and related amendments to Chapter 24 of the Municipal Code. A complete copy of Bill No. G-91-08-38 is available for public inspection in the office of the City Clerk, Room 122 of the City-County Building.

Fort Wayne Common Council

Sandra E. Kennedy
City Clerk

1 of the preceding calendar year
calendar year shall be certified
tion in May of the same year.
y 1 of the current calendar year
alendar year shall be certified
ection in November of the same

Cited: Williams v. City of Indianapolis, 558 N.E.2d 884 (Ind. App. 1990).

36-9-23-31. Delinquent fees — Penalties. — If fees assessed against real property under this chapter or any statute repealed by IC 19-2-5-30 (repealed September 1, 1981) are not paid within the time fixed by the municipal legislative body, they are delinquent. A penalty of ten percent (10%) of the amount of the fees attaches to the delinquent fees. The amount of the fee, the penalty, and a reasonable attorney's fee may be recovered by the board in a civil action in the name of the municipality. [IC 36-9-23-31, as added by Acts 1981, P.L. 309, § 96; P.L.3-1990, § 136.]

Amendments. The 1990 amendment inserted "(repealed September 1, 1981)" in the first sentence.

Effective Dates. P.L.3-1990, § 152, declared an emergency. Approved March 13, 1990.

36-9-23-32. Assessment lien — Priority — Notice to subsequent owners — Property occupied by persons other than owner.

NOTES TO DECISIONS

Due Process.

A municipality's lien against property for utility fees is not a deprivation or taking of property, therefore, the requirements of due

process are inapplicable. *Williams v. City of Indianapolis*, 558 N.E.2d 884 (Ind. App. 1990).

36-9-23-33. Applicability of section — List of delinquent fees and penalties — Recordation of list — Notice to property owners — Collection — Release of recorded liens. — (a) This section applies only to fees or penalties that have been due and unpaid for at least ninety (90) days.

(b) The officer charged with the collection of fees and penalties assessed under this chapter shall enforce their payment. The officer shall not more than two (2) times in any calendar year prepare a list of the delinquent fees and penalties that are enforceable under this section, which must include:

- (1) The name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent;
- (2) The description of the premises, as shown by the records of the county auditor; and
- (3) The amount of the delinquent fees, together with the penalty.

(c) The officer shall record a copy of each list with the county recorder, who shall charge a fee for recording it in accordance with the fee schedule established in IC 36-2-7-10. The officer shall then mail to each property owner on the list a notice stating that a lien against the owner's property has been recorded. Except for a county having a consolidated city, a service charge of five dollars (\$5), which is in addition to the recording fee charged under this subsection and under subsection (f), shall be added to each delinquent fee that is recorded.

(d) This subsection applies only to a county containing a consolidated city. Using the lists prepared under subsection (b) and recorded under subsection (c), the officer shall certify to the county auditor a list of the liens that remain unpaid according to the following schedule:

- (1) Liens recorded on or after August 1 of the preceding calendar year and before February 1 of the current calendar year shall be certified before March 1 of each year for collection in May of the same year.
- (2) Liens recorded on or after February 1 of the current calendar year and before August 1 of the current calendar year shall be certified before September 1 of each year for collection in November of the same year.

ties. The municipality or board shall recover the amount of the fees and penalties, and a reasonable attorney's fee. The court shall order the sale to be made without relief from valuation or appraisal laws.

(b) Except as otherwise provided by this chapter, actions under this chapter are subject to the general statutes regarding municipal public improvement assessments. [IC 36-9-23-34, as added by Acts 1981, P.L. 309, § 96.]

36-9-23-35. Functions, powers and duties of state stream pollution control board and state board of health unaffected. — No proceedings other than those prescribed by this chapter are required for:

- (1) The construction or acquisition of sewage works;
- (2) The issuance or sale of bonds; or
- (3) The establishment of fees;

under this chapter. However, the functions, powers, and duties of the state stream pollution control board and state board of health are not affected by this chapter. [IC 36-9-23-35, as added by Acts 1981, P.L. 309, § 96.]

Cross References. Connections from shopping centers, housing developments and other areas may be required, 13-7-15-1.

Sewage definition, environmental management law, 13-7-1-2(12).

Sewage, rules of state board of health, 16-1-3-13.

State pollution control board, sewage disposal plants, 13-1-3-13.

36-9-23-36. Exercise of municipal powers outside corporate limits. — A municipality may exercise powers granted by this chapter in areas within ten [10] miles outside its corporate boundaries. [IC 36-9-23-36, as added by Acts 1981, P.L. 309, § 96.]

Collateral References. 56 Am. Jur. 2d Municipal Corporations §§ 566, 568.
63 C.J.S. Municipal Corporations § 1059.

CHAPTER 24

LEASING OF SEWAGE DISPOSAL FACILITIES

SECTION.	SECTION.
36-9-24-1. Application of chapter.	and decision by public service commission.
36-9-24-2. "Sewage disposal facilities" defined.	36-9-24-9. Limitation of actions on lease.
36-9-24-3. Lease from sewage disposal company.	36-9-24-10. Findings by state stream pollution control board and state board of health.
36-9-24-4. Length of lease — Option to renew.	36-9-24-11. Establishment and collection of fees — Hearings on proposed fees — Extension of fees — Changes or readjustments — Collection of delinquent fees.
36-9-24-5. Purchase option — Exercise of option — Acquisition of property when option not exercised.	36-9-24-12. Exemption from taxation.
36-9-24-6. Terms of lease — Payment of rental and expenses.	36-9-24-13. Applicability of other provisions concerning lease and acquisition of sewage disposal facilities.
36-9-24-7. Notice and hearing on proposed lease — Authorization and execution of lease.	36-9-24-14. Lease and operation of facilities outside corporate boundaries.
36-9-24-8. Notice of signing of lease — Filing of objections — Hearing	

ties. The municipality or board shall recover the amount of the fees and penalties, and a reasonable attorney's fee. The court shall order the sale to be made without relief from valuation or appraisal laws.

(b) Except as otherwise provided by this chapter, actions under this chapter are subject to the general statutes regarding municipal public improvement assessments. [IC 36-9-23-34, as added by Acts 1981, P.L. 309, § 96.]

36-9-23-35. Functions, powers and duties of state stream pollution control board and state board of health unaffected. — No proceedings other than those prescribed by this chapter are required for:

- (1) The construction or acquisition of sewage works;
- (2) The issuance or sale of bonds; or
- (3) The establishment of fees;

under this chapter. However, the functions, powers, and duties of the state stream pollution control board and state board of health are not affected by this chapter. [IC 36-9-23-35, as added by Acts 1981, P.L. 309, § 96.]

Cross References. Connections from shopping centers, housing developments and other areas may be required, 13-7-15-1.

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CHAPTER 24

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upon receipt of a verified demand in writing from the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner, and that the purchaser has not been paid by the seller for the delinquent fees. [IC 36-9-23-32, as added by Acts 1981, P.L. 309, § 96.]

Indiana Law Review. Survey of Recent Transactions and Creditors' Rights, 9 Ind. L. Developments in Indiana Law, XVI. Secured Rev. 305.

36-9-23-33. List of delinquent fees and penalties — Notice to property owners — Collection. — (a) The officer charged with the collection of fees and penalties assessed under this chapter shall enforce their payment. The officer shall, from time to time, prepare a list of the delinquent fees and penalties, which must include:

- (1) The name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent;
- (2) The description of the premises, as shown by the records of the county auditor; and
- (3) The amount of the delinquent fees, together with the penalty.

The officer shall record a copy of the list with the county recorder, who may not charge a fee for recording it. The officer shall then mail to each property owner on the list a notice stating that a lien against the owner's property has been recorded. A service charge of five dollars [\$5.00] shall be added to each delinquent fee that is recorded.

(b) Using the list prepared under subsection (a), the officer shall, before July 11 of each year, certify to the county auditor a list of the liens that remain unpaid, for collection in the next November.

(c) On receipt of the list under subsection (b), the county auditor shall immediately enter on the tax duplicate for the municipality the delinquent fees, penalties, and service charges, which are due no later than the due date of the next November installment of property taxes. The county treasurer shall then mail a notice of the delinquent fee, penalty, and service charge to the owner or owners of each lot or parcel of property, as shown on the tax duplicate.

(d) If a delinquent fee, penalty, and service charge are not paid, they shall be collected in the same way that delinquent property taxes are collected.

(e) At the time of each semiannual tax settlement, the county treasurer shall pay over to the officer all fees and penalties that have been collected. The county treasurer shall retain the service charges that he has collected, and shall deposit them in the county general fund.

(f) Fees, penalties, and service charges that were not recorded before a recorded conveyance shall be removed from the tax roll for a purchaser who, in the manner prescribed by section 32(d) [36-9-23-32(d)] of this chapter, files a verified demand with the county auditor. [IC 36-9-23-33, as added by Acts 1981, P.L. 309, § 96.]

36-9-23-34. Foreclosure actions. — (a) A municipality or board may foreclose a lien established by this chapter in order to collect fees and penal-

*new § attached
at end (w/rev)*

Background
on Sewer liens

(c) A municipality may establish, enforce, and collect reasonable penalties for failure to make a connection under this section.

(d) A municipality may apply to the circuit or superior court for the county in which it is located for an order to require a connection under this section. The court shall assess the cost of the action and reasonable attorney's fees of the municipality against the property owner in such an action. [IC 36-9-23-30, as added by Acts 1981, P.L. 309, § 96.]

Collateral References. 25 Am. Jur. 2d 62 C.J.S. Municipal Corporations § 303.
Drains and Drainage District § 37. 64 C.J.S. Municipal Corporations §§ 1805,
56 Am. Jur. 2d Municipal Corporations 1806.
§§ 469, 574.

36-9-23-31. Delinquent fees — Penalties. — If fees assessed against real property under this chapter or any statute repealed by IC 19-2-5-30 are not paid within the time fixed by the municipal legislative body, they are delinquent. A penalty of ten percent [10%] of the amount of the fees attaches to the delinquent fees. The amount of the fee, the penalty, and a reasonable attorney's fee may be recovered by the board in a civil action in the name of the municipality. [IC 36-9-23-31, as added by Acts 1981, P.L. 309, § 96.]

36-9-23-32. Assessment lien — Priority — Notice to subsequent owners — Property occupied by persons other than owner. — (a) Fees assessed against real property under this chapter or under any statute repealed by IC 19-2-5-30 constitute a lien against the property assessed. The lien is superior to all other liens except tax liens. Except as provided in subsections (b) and (c), the lien attaches when notice of the lien is filed in the county recorder's office under section 33 [36-9-23-33] of this chapter.

(b) A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before the conveyance to the subsequent owner. If the property is conveyed before the lien can be filed, the municipality shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not less than fifteen [15] days after the date of the notice. If payment is not received within one hundred eighty [180] days after the date of the notice, the amount due may be expensed as a bad debt loss.

(c) A lien attaches against real property occupied by someone other than the owner only if the utility notified the owner within twenty [20] days after the time the utility fees became sixty [60] days delinquent. However, the utility is required to give notice to the owner only if the owner has given the general office of the utility written notice of the address to which his notice is to be sent.

← provision
to
protect
landlord

(d) The municipality shall release:

(1) Liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) Delinquent fees incurred by the seller;



THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ROOM 122 • FORT WAYNE, INDIANA 46802 • 219-427-1208

SANDRA E. KENNEDY, CITY CLERK

September 24, 1991

Ms. Connie Lambert
Fort Wayne Newspapers, Inc.
600 West Main Street
Fort Wayne, IN 46802

Dear Ms. Lambert:

Please give the attached full coverage on the dates
of September 27 and October 4, 1991, in both the News
Sentinel and Journal Gazette.

RE: Legal Notice for Common Council
of Fort Wayne, IN

Bill No. G-91-08-38 (as amended)
General Ordinance No. G-25-91
Sewer and Sewerage System

Please send us 4 copies of the Publisher's Affidavit from
both newspapers.

Thank you.

Sincerely yours,


Sandra E. Kennedy
City Clerk

SEK/ne
ENCL: 1

LEGAL NOTICE

Notice is hereby given that on the 10th day of
September, 19 91, the Common Council of the City
of Fort Wayne, Indiana, in a Regular Session did pass
the following Bill No. G-91-08-38 (as amended) General
Ordinance No. G-25-91 to-wit:

BILL NO. G-91-08-38 (AS AMENDED)

GENERAL ORDINANCE NO. G-25-91

AN ORDINANCE AMENDING CHAPTER 24 OF THE
CITY OF FORT WAYNE CODE OF LAWS.

WHEREAS, The City of Fort Wayne, through adoption of
Ordinance G-17-91, has established an interim stormwater fee
structure as the most equitable and appropriate method to fund
the operation, maintenance and improvement of its stormwater
system; and

WHEREAS, It is the purpose of this Ordinance to more
accurately categorize the users of the City's stormwater
system according to the impervious stormwater runoff
contributed by each, and to compensate those users which were
over-charged.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL
OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That Chapter 24 of the City of Fort
Wayne Code of Laws be amended as follows:

CHAPTER 24

SEWERS AND SEWERAGE SYSTEM

ARTICLE I - General

Sec. 24.1. Definitions.

Unless the context specifically indicates otherwise, the
meanings of the following terms as used in this Chapter and as
used in the Rules and Regulations adopted by the Board of
Public Works implementing the provisions of this Chapter for
the Fort Wayne sewerage system are as set out below
respectively:

- a) "ACT:" the Federal Water Pollution Control Act, also
known as "The Clean Water Act," as amended, 33 U.S.C.
466, as referred to at I.C. 13-1-4-1.
- b) "APPLICABLE PRETREATMENT STANDARDS" - any pretreatment
limit or prohibitive standard (Federal, State and/or
Local) contained in the ordinance and considered to be
the more restrictive with which non-domestic users shall
be required to comply.
- c) "BIOCHEMICAL OXYGEN DEMAND (BOD)" - the quantity of
dissolved oxygen, in milligrams per liter, required
during the stabilization of the decomposable organic
matter by aerobic biochemical action of sewage, sewage
effluent, polluted waters or industrial wastes under
standard laboratory procedures for five days at 20°
centigrade. The laboratory determinations shall be made
in accordance with procedures set forth in "Standard
Methods" (see paragraph 24-1.(mm) below).

c) That this Ordinance shall be in full force and effect from and after its passage, and any and all necessary approval by the Mayor and due legal publication thereof.

Paul M. Burns
Councilmember

Read the third time in full and on motion by Burns, seconded by Redd, and duly adopted, placed on its passage. PASSED by the following vote:

Ayes: Seven
Burns, Edmonds, Henry, Long, Redd,
Schmidt, Talarico

Nays: One
Bradbury
Abstained: None
Absent: One
GiaQuinta

DATED: 9-10-91
Sandra E. Kennedy
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-25-91 on the 10th day of September, 1991.

ATTEST: SEAL

Sandra E. Kennedy
City Clerk

Samuel J. Talarico
Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 11th day of September, 1991, at the hour of 4:00 o'clock P.M., E.S.T.

Sandra E. Kennedy
City Clerk

Approved and signed by me this 20th day of September, 1991, at the hour of 4:45 o'clock P.M., E.S.T.

Paul Helmke
Mayor

I, The Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing is a full, true and complete copy of
General Ordinance No. G-25-91,
passed by the Common Council on the 10th day of
September, 1991, and that said Ordinance was
duly signed and approved by the Mayor on the 20th day of
September, 1991, and now remains on file and
on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 20th day of September, 1991.

SEAL


SANDRA E. KENNEDY, CITY CLERK

FW Common Council
(Governmental Unit)

To: The Journal-Gazette
P.O. Box 100
Fort Wayne, IN Dr.

County, Indiana

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set)
-- number of equivalent lines _____
Head -- number of lines _____
Body -- number of lines _____
Tail -- number of lines _____
Total number of lines in notice _____

COMPUTATION OF CHARGES

62 lines, 1 columns wide equals 62 equivalent lines
at .33 cents per line \$ 20.46
Additional charge for notices containing rule or tabular work
(50 percent of above amount) _____
Charge for extra proofs of publication (\$1.00 for each proof in excess of two) 1.00
TOTAL AMOUNT OF CLAIM \$ 21.46

DATA FOR COMPUTING COST

Width of single column 12.5 ems
Number of insertions 1
Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date: August 31, 1991 Title: Clerk
Cindy Gillenwater

NOTICE OF HEARING
ON PROPOSED MODIFICATION OF RATES AND CHARGES OF FORT WAYNE SEWAGE WORKS AS THEY PERTAIN TO STORMWATER FEES.

Property owners and other interested parties in the City of Fort Wayne are hereby notified that on August 27, 1991, the Common Council introduced Bill No. G-91-08-38 proposing to amend Chapter 24 of the Municipal Code as it relates to the stormwater service fee rate structure and collection of the fee. The introduced ordinance proposes to amend the Stormwater Service Fee Schedule as follows:

The following charges for stormwater service shall apply to each of the classifications hereafter listed:

Class	Description of User	Mo. Flat Charge
50;	Residential - General, Single Family;	\$1.94
51;	Multi-Unit Residential (0-8 Per Service Address;	1.94
52;	Multi-Unit Residential 9-18 Per Service Address;	5.49
53;	Home Occupational;	1.94
60	Commercial - General	36.93
31	Restaurants	36.93
32	Retail Stores	36.93
33	Laundries/Dry Cleaners	36.93
34	Offices	36.93
35	Car Washes	36.93
36	Gas Stations	36.93
37	Hotels/Motels/Exhibits	36.93
38	Multi-Unit Residential 18	36.93
39	Commercial-Small Facility	5.49
40	Industrial - General	52.47
41	Manufacturing	52.47
42	Transportation	52.47
43	Utilities	52.47
44	Industrial Services	52.47
45	Industrial-Small Facility	5.49
46	Institutional - General	36.93
47	Hospitals/Nursing Home	36.93
48	Churches	36.93
49	Schools	36.93
50	Institutional-Small Facility	5.49
51	Miscellaneous	36.93
52	Inter-Departmental City	36.93
53	Miscellaneous-Small Facility	5.49

At a meeting of the Common Council to be held at 7:00 P.M. (Fort Wayne time) on September 10, 1991, in room 126 of the City-County Building, there will be a public hearing on the above described amendments. The Council, after consideration of information presented at said hearing and deliberation on the issue may adopt or modify and adopt, the proposed rate structure and related amendments to Chapter 24 of the Municipal Code. A complete copy of Bill No. G-91-08-38 is available for public inspection in the office of the City Clerk, Room 122 of the City-County Building.

Fort Wayne Common Council
Sandra E. Kennedy
City Clerk

PUBLISHER'S AFFIDAVIT

State of Indiana)
) ss:
Allen County)

Personally appeared before me, a notary public in and for said county and state, the undersigned Cindy Gillenwater who, being duly sworn, says that he/she is Clerk of the The Journal-Gazette newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 1 time _____, the dates of publication being as follows:

8/31/91
Cindy Gillenwater
Subscribed and sworn to before me this 31st day of August, 1991.

Shelley R. Larue
Notary Public Whitley County, IN
SHELLEY R. LARUE
My commission expires: March 3, 1994

PUBLISHER'S CLAIM

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I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Cindy Gillenwater
Clerk

August 21, 1991

NOTICE OF HEARING
ON PROPOSED MODIFICATION OF RATES AND CHARGES OF FORT WAYNE SEWAGE WORKS AS THEY PERTAIN TO STORMWATER FEES.

Property owners and other interested parties in the City of Fort Wayne are hereby notified that on August 27, 1991, the Common Council introduced Bill No. G-91-08-38 proposing to amend Chapter 24 of the Municipal Code as it relates to the stormwater service fee rate structure and collection of the fee. The introduced ordinance proposes to amend the Stormwater Service Fee Schedule as follows:

The following charges for stormwater service shall apply to each of the classifications hereafter listed:

Class	Description of User	Mo. Flat Charge
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51	Multi-Unit Residential (0-8 Per Service Address;	1.94
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Fort Wayne Common Council
Sandra E. Kennedy
City Clerk

PUBLISHER'S AFFIDAVIT

State of Indiana)
) ss:
Allen County)

Personally appeared before me, a notary public in and for said county and state, the undersigned Cindy Gillenwater who, being duly sworn, says that he/she is Clerk of the The News-Sentinel newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 1 time (s), the dates of publication being as follows:

8/31/91
Cindy Gillenwater
Subscribed and sworn to before me this 31st day of August, 19 91.

Shelley R. Larue
Notary Public Whitley County, IN
SHELLEY R. LARUE

My commission expires: March 3, 1994